



# IIA ISSUES NOTE

## INTERNATIONAL INVESTMENT AGREEMENTS



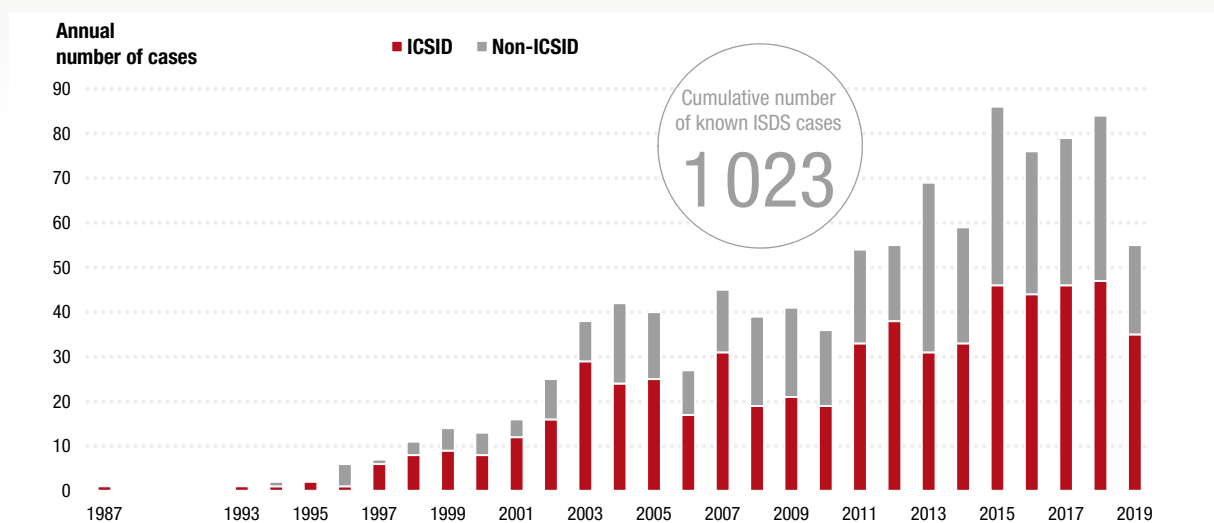
UNITED NATIONS  
UNCTAD

# INVESTOR–STATE DISPUTE SETTLEMENT CASES PASS THE 1,000 MARK: CASES AND OUTCOMES IN 2019

## H I G H L I G H T S

- At least 55 known treaty-based investor–State dispute settlement (ISDS) cases were initiated in 2019 (figure 1), all under old-generation treaties signed before 2012.
- As of 1 January 2020, the total number of known ISDS cases pursuant to international investment agreements (IIAs) had reached 1,023. To date, 120 countries and one economic grouping are known to have been respondents to one or more ISDS claims.
- The new ISDS cases in 2019 were initiated against 36 countries and one economic grouping (the European Union, EU). As in previous years, the majority of new cases were brought against developing countries and transition economies. Developed-country investors brought most of the 55 known cases.
- UNCTAD's Special Investment Policy Monitor (No. 4) and the World Investment Report 2020 (chapter III) review investment policy responses to the COVID-19 pandemic, also highlighting the risk of ISDS proceedings under IIAs and the need to safeguard sufficient regulatory space in this regard.

**Figure 1. Trends in known treaty-based ISDS cases, 1987–2019**



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.

## 1. Trends in ISDS: new cases and outcomes

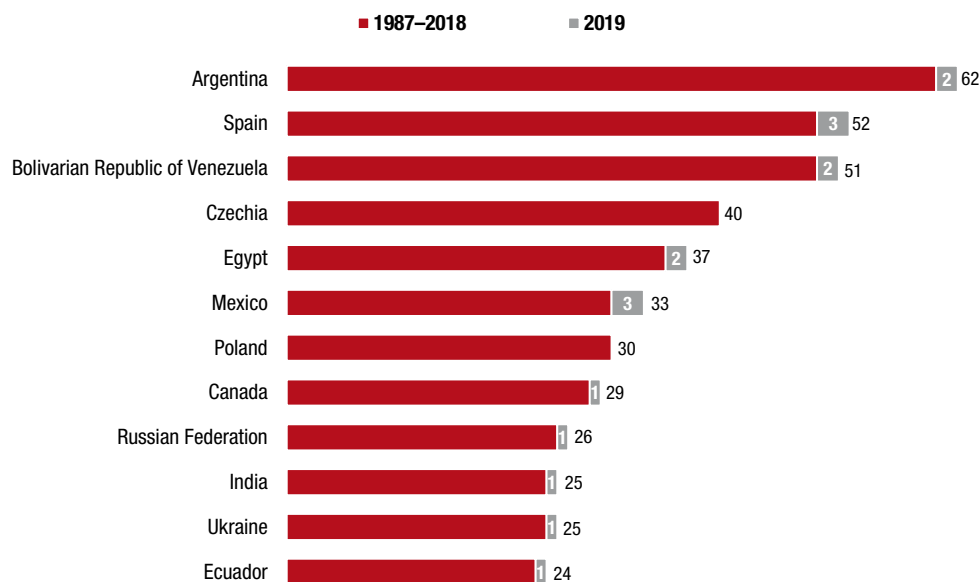
### (i) New cases initiated in 2019

In 2019, investors initiated 55 publicly known ISDS cases pursuant to IIAs (figure 1), the lowest number in the preceding five years. On the basis of newly revealed information, the number of known cases for 2018 was adjusted to 84. As of 1 January 2020, the total number of publicly known ISDS claims had reached 1,023. As some arbitrations can be kept confidential, the actual number of disputes filed in 2019 and previous years is likely to be higher. To date, 120 countries and one economic grouping are known to have been respondents to one or more ISDS claims.

### Respondent States

The new ISDS cases in 2019 were initiated against 36 countries and one economic grouping (the EU). Colombia, Mexico, Peru and Spain were the most frequent respondents, with three known cases each. Three economies – the EU,<sup>1</sup> Nepal and Sierra Leone – faced their first known ISDS claims. As in previous years, the majority of new cases (80 per cent) were brought against developing countries and transition economies. Overall, Argentina, Spain and Venezuela have received the largest share of claims over the years (figure 2).

**Figure 2. Most frequent respondent States, 1987–2019** (Number of known cases)



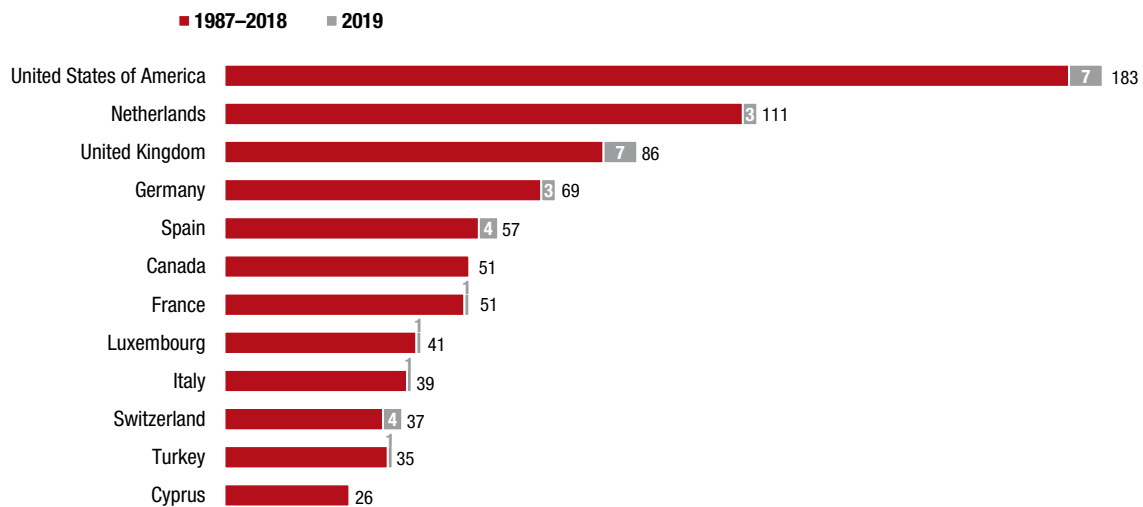
Source: UNCTAD, ISDS Navigator.

### Claimant home States

Developed-country investors brought most – about 70 per cent – of the 55 known cases in 2019. The highest numbers of cases were brought by investors from the United Kingdom and the United States, with seven cases each. Of all known cases, investors from the United States, the Netherlands and the United Kingdom have filed the largest shares (figure 3).

<sup>1</sup> Nord Stream 2 AG (Switzerland), a subsidiary of Gazprom (Russian Federation), initiated an arbitration against the EU under the ECT on 26 September 2019 related to the EU Gas Directive amendment of 2019; see <https://investmentpolicy.unctad.org/investment-dispute-settlement/cases/1008/nord-stream-2-v-eu>.

**Figure 3. Most frequent home States of claimants, 1987–2019** (Number of known cases)



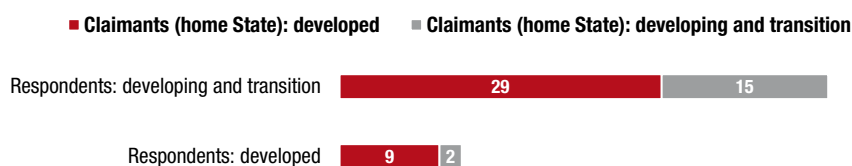
Source: UNCTAD, ISDS Navigator.

### Cases by country classification

In about half of the 55 known cases in 2019, developing countries and transition economies were the respondent States and developed countries were the home States of the claimants (29 cases; figure 4).<sup>2</sup> However, about 25 per cent of cases were brought by investors from developing countries or transition economies against other countries from these categories (15 cases).

Developed-country investors' cases against other developed countries – 9 cases – mostly consisted of intra-EU disputes. In two cases, investors from developing countries and transition economies challenged developed countries.

**Figure 4. ISDS cases by country classification, 2019** (Number of known cases)



Source: UNCTAD, ISDS Navigator.

### Intra-EU disputes

About 15 per cent of the 55 known cases filed in 2019 were intra-EU disputes (seven cases), slightly below the historical average of 20 per cent. Five of these seven disputes were brought on the basis of the Energy Charter Treaty (ECT); the remaining two invoked intra-EU bilateral investment treaties (BITs).

The overall number of known arbitrations initiated by an investor from one EU member State against another totalled 188 at the end of 2019. It remains to be seen whether recent EU-level developments related to intra-EU BITs and the ECT will greatly reduce or eventually eliminate new treaty-based intra-EU disputes (box 1).

<sup>2</sup> This includes four cases brought by developed-country investors against least developed countries.

## Box 1. EU agreement for the termination of intra-EU BITs

On 5 May 2020, 23 EU member States<sup>a</sup> signed the agreement for the termination of intra-EU BITs in order to implement the ruling in the *Achmea* case, which found that investor–State arbitration clauses in intra-EU BITs are incompatible with EU law. The agreement contains one annex with a list of about 125 intra-EU BITs currently in force that will be terminated upon entry into force of the agreement for the relevant member States and clarifies that their sunset clauses will also be terminated. A second annex lists 11 already terminated intra-EU BITs whose sunset clauses will also cease to produce legal effect upon entry into force of the agreement for the relevant member States. The agreement does not cover intra-EU proceedings under the Energy Charter Treaty (ECT). It indicates that the EU as a group and the member States will address this matter at a later stage.

Source: UNCTAD (2020). *World Investment Report 2020: International Production Beyond the Pandemic*. New York and Geneva: United Nations.

<sup>a</sup> These are Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain.

### Applicable investment treaties

About 70 per cent of investment arbitrations in 2019 were brought under BITs and treaties with investment provisions (TIPs) signed in the 1990s or earlier. The remaining cases were based on treaties signed between 2000 and 2011. The ECT (1994) was the IIA invoked most frequently in 2019, with seven cases, followed by the North American Free Trade Agreement (NAFTA, 1992) with three cases. Looking at the overall trend, about 20 per cent of the 1,023 known cases have invoked the ECT (128 cases) or NAFTA (67 cases).

### Economic sectors involved

About two thirds of the cases filed in 2019 related to activities in the services sector:

- Supply of electricity, gas, steam and air (14 cases)
- Financial and insurance services (7 cases)
- Transportation and storage (5 cases)
- Construction (4 cases)
- Information and communication (2 cases)
- Real estate (2 cases)
- Other services (2 cases)

Primary industries accounted for 18 per cent of the new cases and manufacturing for 16 per cent.

### Measures challenged

Investors in 2019 most frequently challenged the following types of State conduct:

- Alleged takeover, seizure or nationalization of investments (at least 9 cases)
- Alleged breach, non-fulfilment or interference with contracts or concessions (at least 7 cases)
- Termination, non-renewal or suspension of contracts or concessions (at least 6 cases)
- Revocation or denial of licences or permits (at least 4 cases)
- Legislative reforms in the renewable energy sector (at least 3 cases)
- Forced liquidation or closure (at least 2 cases)
- Tax-related measures such as the imposition of a capital gains tax or back taxes (at least 2 cases)

Other conduct that was challenged included domestic legal decisions, alleged failure to protect investments during civil war, an import and export ban of certain steel, and the phase out of coal-fired power plants.

### Amounts claimed

Where information regarding the amounts sought by investors has been disclosed (in about half of the new cases), the reported amounts claimed range from \$10 million (*Castillo v. Panama*) to \$3.5 billion (*Odyssey v. Mexico*).

## (ii) ISDS outcomes

### Decisions and outcomes in 2019

In 2019, ISDS tribunals rendered at least 71 substantive decisions in investor–State disputes, 39 of which were in the public domain at the time of writing. More than half of the public decisions on jurisdictional issues were decided in favour of the State, whereas on the merits more decisions were decided in favour of the investor.

- Fourteen decisions (including rulings on preliminary objections) principally addressed jurisdictional issues, with five upholding the tribunal’s jurisdiction and nine declining jurisdiction.
- Twenty-five decisions on the merits were rendered, with 14 accepting at least some investor claims and 11 dismissing all the claims. In the decisions holding the State liable, tribunals most frequently found breaches of the fair and equitable treatment (FET) provision. The amounts awarded ranged from less than 10 million (\$7.9 million in *Magyar Farming and others v. Hungary*) to several billions (\$4 billion in *Tethyan Copper v. Pakistan* and \$8.4 billion in *ConocoPhillips v. Venezuela*).

In addition, four publicly known decisions were rendered in annulment proceedings at the International Centre for Settlement of Investment Disputes (ICSID). Ad hoc committees of ICSID rejected the applications for annulment in all four cases.

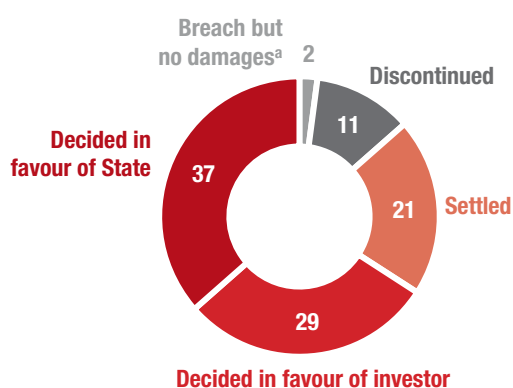
### Overall outcomes

By the end of 2019, at least 674 ISDS proceedings had been concluded. The relative share of case outcomes changed only slightly from that in previous years (figure 5).

About 37 per cent of all concluded cases were decided in favour of the State (claims were dismissed either on jurisdictional grounds or on the merits), and about 29 per cent were decided in favour of the investor, with monetary compensation awarded. About 21 per cent of the cases were settled; in most cases, the terms of settlement remained confidential. In the remaining proceedings, either the cases were discontinued or the tribunal found a treaty breach but did not award monetary compensation.

Of the cases that were resolved in favour of the State, about half were dismissed for lack of jurisdiction. Looking at the totality of decisions on the merits (i.e. where a tribunal determined whether the challenged measure breached any of the IIA’s substantive obligations), about 60 per cent were decided in favour of the investor and the remainder in favour of the State (figure 6).

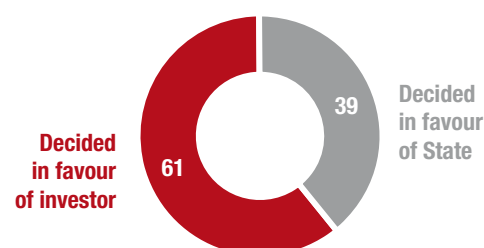
**Figure 5. Results of concluded cases, 1987–2019 (Per cent)**



Source: UNCTAD, ISDS Navigator.

<sup>a</sup> Decided in favour of neither party (liability found but no damages awarded).

**Figure 6. Results of decisions on the merits, 1987–2019 (Per cent)**



Source: UNCTAD, ISDS Navigator.

Note: Excludes cases (i) dismissed by tribunals for lack of jurisdiction, (ii) settled, (iii) discontinued for reasons other than settlement (or for unknown reasons) and (iv) decided in favour of neither party (liability found but no damages awarded).

### **(iii) Government measures in response to the COVID-19 pandemic and the risk of ISDS proceedings**

IAs can come into play in relation to government responses to the COVID-19 pandemic, including measures taken in the public interest, to protect public health and to tackle the devastating economic and social effects of the pandemic. As these measures also affect the operations of foreign investors, some of them could, depending on the way they are implemented, expose governments to arbitration proceedings initiated by foreign investors under IAs and/or investor–State contracts.

Concerns have been expressed that there could be a surge of ISDS cases with respect to COVID-related measures. The International Institute for Sustainable Development (IISD) highlighted the need for collective action to avoid this from happening, and noted that this could be coordinated through UNCTAD.<sup>3</sup> In May 2020, the Columbia Center on Sustainable Investment (CCSI) published a call signed by a number of leaders on human rights and sustainable development for an immediate and complete moratorium on all investor–State arbitration claims by foreign investors against governments using IAs until the end of the pandemic, as well as a permanent restriction on all arbitration claims related to government measures targeting health, economic and social dimensions of the pandemic and its effects.<sup>4</sup> The signatories also called on governments to agree on principles to ensure that future arbitration cases do not hinder countries' good faith recovery efforts and that any damages awarded in ISDS cases respect the dire financial situation facing governments following the pandemic.

This highlights the need to safeguard sufficient regulatory space in IAs to protect public health and to minimize the risk of ISDS proceedings, while protecting and promoting international investment for development. In its *Special Investment Policy Monitor* dedicated to the COVID-19 pandemic, UNCTAD has highlighted the most relevant IA provisions in the context of the pandemic and made recommendations to shield State measures from a finding of a treaty violation in line with UNCTAD's Investment Policy Framework for Sustainable Development (2015) and UNCTAD's Reform Package for the International Investment Regime (2018).<sup>5</sup> UNCTAD's IIA Reform Accelerator, which will be launched later this year, will provide an actionable policy tool for economies wishing to accelerate the reform of their existing and aging network of IAs to better respond to today's challenges while maintaining investment protection.

<sup>3</sup> Withdrawing ISDS consent is put forward as another option. See Bernasconi-Osterwalder, N., Brewin, S., and Maina, N. "Protecting Against Investor–State Claims Amidst COVID 19: A call to action for governments", IISD Commentary, <https://www.iisd.org/sites/default/files/publications/investor-state-claims-covid-19.pdf>

<sup>4</sup> The full text is available at <http://ccsi.columbia.edu/2020/05/05/isds-moratorium-during-covid-19>

<sup>5</sup> UNCTAD (2020). "Investment Policy Responses to the COVID-19 Pandemic", *Investment Policy Monitor*, Special Issue No. 4, May 2020. New York and Geneva: United Nations. See also UNCTAD (2020). *World Investment Report 2020: International Production Beyond the Pandemic*. New York and Geneva: United Nations.

## UNCTAD Policy Tools for IIA Reform

Investment Policy Framework for Sustainable Development (2015 version)

[https://unctad.org/en/PublicationsLibrary/diaepcb2015d5\\_en.pdf](https://unctad.org/en/PublicationsLibrary/diaepcb2015d5_en.pdf)

Improving Investment Dispute Settlement: UNCTAD's Policy Tools (IIA Issues Note, No. 4, November 2018)

[https://unctad.org/en/PublicationsLibrary/diaepcb2017d8\\_en.pdf](https://unctad.org/en/PublicationsLibrary/diaepcb2017d8_en.pdf)

Reform Package for the International Investment Regime (2018 edition)

[https://investmentpolicy.unctad.org/uploaded-files/document/UNCTAD\\_Reform\\_Package\\_2018.pdf](https://investmentpolicy.unctad.org/uploaded-files/document/UNCTAD_Reform_Package_2018.pdf)

Reforming Investment Dispute Settlement: A Stocktaking (IIA Issues Note, No. 1, March 2019)

[https://unctad.org/en/PublicationsLibrary/diaepcbinf2019d3\\_en.pdf](https://unctad.org/en/PublicationsLibrary/diaepcbinf2019d3_en.pdf)

## UNCTAD Investment Policy Online Databases

International Investment Agreements Navigator

<https://investmentpolicy.unctad.org/international-investment-agreements>

IIA Mapping Project

<https://investmentpolicy.unctad.org/international-investment-agreements/iaa-mapping>

Investment Dispute Settlement Navigator

<https://investmentpolicy.unctad.org/investment-dispute-settlement>

Investment Laws Navigator

<https://investmentpolicy.unctad.org/investment-laws>

## Annex 1. Known treaty-based ISDS cases initiated in 2019

Key information about each case is available at:

<https://investmentpolicy.unctad.org/investment-dispute-settlement>

No.	Full case name	Respondent State	Home State of claimant	Applicable IIA
1	Alaa Nizar Raja Sumrain, Ayat Nizar Raja Sumrain, Eshraka Nizar Raja Sumrain and Mohamed Nizar Raja Sumrain v. State of Kuwait (ICSID Case No. ARB/19/20)	Kuwait	Egypt	Egypt–Kuwait BIT (2001)
2	Alcosa v. The State of Kuwait	Kuwait	Spain	Kuwait–Spain BIT (2005)
3	Alejandro Diego Díaz Gaspar v. Republic of Costa Rica (ICSID Case No. ARB/19/13)	Costa Rica	Spain	Costa Rica–Spain BIT (1997)
4	Alois Schönberger v. Republic of Tajikistan (ICSID Case No. ARB(AF)/19/1)	Tajikistan	Austria	Austria–Tajikistan BIT (2010)

No.	Full case name	Respondent State	Home State of claimant	Applicable IIA
5	Amec Foster Wheeler USA Corporation, Joint Venture Foster Wheeler USA Corporation and Process Consultants, Inc., and Process Consultants, Inc. v. Republic of Colombia (ICSID Case No. ARB/19/34)	Colombia	United States of America	Colombia–United States TPA (2006)
6	Axiata Investments (UK) Limited and Ncell Private Limited v. Federal Democratic Republic of Nepal (ICSID Case No. ARB/19/15)	Nepal	United Kingdom	Nepal–United Kingdom BIT (1993)
7	Ayoub-Farid Michel Saab v. United Republic of Tanzania (ICSID Case No. ARB/19/8)	Tanzania, United Republic of	Netherlands	Netherlands–United Republic of Tanzania BIT (2001)
8	Azucarera del Guadalupe S.A. and Joaquín Francisco Martín Montero v. Dominican Republic (PCA Case No. 2020-01)	Dominican Republic	Spain	Dominican Republic–Spain BIT (1995)
9	Canepa Green Energy Opportunities I, S.á r.l. and Canepa Green Energy Opportunities II, S.á r.l. v. Kingdom of Spain (ICSID Case No. ARB/19/4)	Spain	Luxembourg	Energy Charter Treaty (1994)
10	CH Mamacocha S.R.L. and Latam Hydro LLC v. Republic of Peru (ICSID Case No. ARB/19/28)	Peru	United States of America	Peru–United States FTA (2006)
11	Chevron Overseas Finance GmbH v. The Republic of the Philippines (PCA Case No. 2019-25)	Philippines	Switzerland	Philippines–Switzerland BIT (1997)
12	CTIP Oil & Gas International Limited v. Arab Republic of Egypt (ICSID Case No. ARB/19/27)	Egypt	United Arab Emirates	Egypt–United Arab Emirates BIT (1997)
13	DSG Yapi Sanayi Ticaret Anonim Sirketi v. Kingdom of Saudi Arabia (ICSID Case No. ARB/19/32)	Saudi Arabia	Turkey	Saudi Arabia–Turkey BIT (2006)
14	Enel Fortuna S.A. v. Republic of Panama (ICSID Case No. ARB/19/5)	Panama	Panama	Italy–Panama BIT (2009)
15	Erste Nordsee-Offshore Holding GmbH, Strabag SE, Zweite Nordsee-Offshore Holding GmbH v. Federal Republic of Germany (ICSID Case No. ARB/19/29)	Germany	Austria	Energy Charter Treaty (1994)
16	Gerald International Limited v. Republic of Sierra Leone (ICSID Case No. ARB/19/31)	Sierra Leone	United Kingdom	Sierra Leone–United Kingdom BIT (2000)
17	Glencore International A.G., C. I. Prodeco S.A., and Sociedad Portuaria Puerto Nuevo S.A. v. Republic of Colombia (II) (ICSID Case No. ARB/19/22)	Colombia	Switzerland	Colombia–Switzerland BIT (2006)
18	Gustavo Maeso Lando v. Bolivarian Republic of Venezuela (ICSID Case No. ARB(AF)/19/2)	Venezuela, Bolivarian Republic of	Uruguay	Uruguay–Venezuela, Bolivarian Republic of BIT (1997)



No.	Full case name	Respondent State	Home State of claimant	Applicable IIA
19	IC Power Asia Development Ltd. v. Republic of Guatemala (PCA Case No. 2019-43)	Guatemala	Israel	Guatemala–Israel BIT (2006)
20	Impresa Pizzarotti & C. S.p.A. v. Kingdom of Morocco (ICSID Case No. ARB/19/14)	Morocco	Italy	Italy–Morocco BIT (1990)
21	Jetion Solar Co. Ltd and Wuxi T-Hertz Co. Ltd. v. Hellenic Republic	Greece	China	China–Greece BIT (1992)
22	Kenon Holdings Ltd and IC Power Ltd v. Republic of Peru (ICSID Case No. ARB/19/19)	Peru	Singapore	Peru–Singapore FTA (2008)
23	Korea Western Power Co v. India	India	Korea, Republic of	India–Republic of Korea BIT (1996); India–Republic of Korea CEPA (2009)
24	Kornikom EOOD v. Republic of Serbia (ICSID Case No. ARB/19/12)	Serbia	Bulgaria	Bulgaria–Serbia BIT (1996)
25	Latin American Regional Aviation Holding S. de R.L. v. Oriental Republic of Uruguay (ICSID Case No. ARB/19/16)	Uruguay	Panama	Panama–Uruguay BIT (1998)
26	Legacy Vulcan, LLC v. United Mexican States (ICSID Case No. ARB/19/1)	Mexico	United States of America	NAFTA (1992)
27	Leopoldo Castillo Bozo v. Republic of Panama (PCA Case No. 2019-40)	Panama	Dominican Republic	Dominican Republic–Panama BIT (2003)
28	M Solar GmbH & Co. KG, M Solar Verwaltungs GmbH, Solarizz Holding GmbH & Co. KG and others v. Kingdom of Spain (ICSID Case No. ARB/19/30)	Spain	Germany	Energy Charter Treaty (1994)
29	Marko Mihaljevic v. Republic of Croatia (ICSID Case No. ARB/19/35)	Croatia	Germany	Croatia–Germany BIT (1997)
30	Mohammad Bahari v. Azerbaijan	Azerbaijan	Iran, Islamic Republic of	Azerbaijan–Iran, Islamic Republic of BIT (1996)
31	Monte Glenn Adcock, Stephen John Bobeck, Justin Tate Caruso and others v. Republic of Colombia (ICSID Case No. ARB/19/6)	Colombia	United States of America	Colombia–United States TPA (2006)
32	Nationale-Nederlanden Holdinvest B.V., Nationale-Nederlanden Intertrust B.V., NN Insurance International B.V., Orígenes AFJP S.A. (en liquidación) v. Argentine Republic (ICSID Case No. ARB/19/11)	Argentina	Netherlands	Argentina–Netherlands BIT (1992)
33	Nord Stream 2 AG v. European Union	EU (European Union)	Switzerland	Energy Charter Treaty (1994)
34	NPC Ukrenergo v. Russian Federation	Russian Federation	Ukraine	Russian Federation–Ukraine BIT (1998)

No.	Full case name	Respondent State	Home State of claimant	Applicable IIA
35	Odyssey Marine Exploration, Inc. and Exploraciones Oceánicas S. de R.L. de C.V. v. United Mexican States	Mexico	United States of America	NAFTA (1992)
36	Orazul International España Holdings S.L. v. Argentine Republic (ICSID Case No. ARB/19/25)	Argentina	Spain	Argentina–Spain BIT (1991)
37	Panamericana Televisión S.A., Katerine Verónica Schütz Dalmau, Ernest Victor Schütz Freundt and Lorena Vivian Schütz Freundt v. The Republic of Peru (PCA Case No. 2019-26)	Peru	Switzerland	Peru–Switzerland BIT (1991)
38	Paul D. Hinks, Symbion Power Tanzania Limited and Richard N. Westbury v. United Republic of Tanzania (ICSID Case No. ARB/19/17)	Tanzania, United Republic of	United Kingdom	United Republic of Tanzania–United Kingdom BIT (1994)
39	Petroceltic Holdings Limited and Petroceltic Resources Limited v. Arab Republic of Egypt (ICSID Case No. ARB/19/7)	Egypt	United Kingdom	Egypt–United Kingdom BIT (1975)
40	Petrochemical Holding GmbH v. Romania (ICSID Case No. ARB/19/21)	Romania	Austria	Energy Charter Treaty (1994)
41	Qatar Pharma and Ahmed Bin Mohammad Al Haie Al Sulaiti v. Kingdom of Saudi Arabia	Saudi Arabia	Qatar	OIC Investment Agreement (1981)
42	Range Resources Limited v. Georgia	Georgia	Australia	Energy Charter Treaty (1994)
43	Russian Fund for the Protection of Investors' Rights in Foreign States v. Lithuania	Lithuania	Russian Federation	Lithuania–Russian Federation BIT (1999)
44	Saptec, S.A. v. Kingdom of Spain (ICSID Case No. ARB/19/23)	Spain	Belgium	Energy Charter Treaty (1994)
45	Scholz Holding GmbH v. Kingdom of Morocco (ICSID Case No. ARB/19/2)	Morocco	Germany	Germany–Morocco BIT (2001)
46	Shokat Mohammed Dalal v. United Arab Emirates (ICSID Case No. ARB/19/10)	United Arab Emirates	United Kingdom	United Arab Emirates–United Kingdom BIT (1992)
47	Société Générale S.A. v. Republic of Croatia (ICSID Case No. ARB/19/33)	Croatia	France	Croatia–France BIT (1996)
48	Terence Highlands v. United Mexican States (ICSID Case No. ARB/19/26)	Mexico	United Kingdom	Mexico–United Kingdom BIT (2006)
49	The Williams Companies International Holdings B.V., WilPro Energy Services (El Furrial) Limited and WilPro Energy Services (Pigap II) Limited v. Bolivarian Republic of Venezuela (II) (ICSID Case No. ARB(AF)/19/3)	Venezuela, Bolivarian Republic of	Netherlands	Netherlands–Venezuela, Bolivarian Republic of BIT (1991)

No.	Full case name	Respondent State	Home State of claimant	Applicable IIA
50	Trasta Energy Limited v. The State of Libya	Libya	United Arab Emirates	OIC Investment Agreement (1981)
51	Valentyn Drozdenko, Artem Kadomskiy, Igor Kompanets and others v. Republic of North Macedonia (ICSID Case No. ARB/19/9)	North Macedonia	Ukraine	North Macedonia–Ukraine BIT (1998)
52	Vnesheconombank v. Ukraine	Ukraine	Russian Federation	Russian Federation–Ukraine BIT (1998)
53	Westmoreland Mining Holdings LLC v. Canada (II)	Canada	United States of America	NAFTA (1992)
54	WorleyParsons International, Inc. v. Republic of Ecuador	Ecuador	United States of America	Ecuador–United States of America BIT (1993)
55	Zaza Okuashvili v. Georgia	Georgia	United Kingdom	Georgia–United Kingdom BIT (1995)

Source: UNCTAD, ISDS Navigator.

## Annex 2. Respondent and home States in known treaty-based ISDS cases

Only countries with at least one known case in either category are included.<sup>6</sup> Further information is available at: <https://investmentpolicy.unctad.org/investment-dispute-settlement>

No.	Country	Cases as respondent State	Cases as home State of claimant
1	Albania	8	0
2	Algeria	9	0
3	Argentina	62	5
4	Armenia	4	0
5	Australia	2	7
6	Austria	1	25
7	Azerbaijan	4	0
8	Bahamas	0	2
9	Bahrain	1	1
10	Bangladesh	1	0
11	Barbados	1	6
12	Belarus	3	1
13	Belgium	2	19
14	Belize	3	0
15	Benin	1	0
16	Bermuda	0	1
17	Bolivia, Plurinational State of	17	1
18	Bosnia and Herzegovina	4	0
19	British Virgin Islands	0	1
20	Bulgaria	10	1
21	Burundi	4	0
22	Cabo Verde	1	0
23	Cameroon	1	0
24	Canada	29	51

<sup>6</sup> Economic groupings such as the EU are not included in annex 2 (one known ISDS case was initiated against the EU in 2019).

No.	Country	Cases as respondent State	Cases as home State of claimant
25	Chile	5	7
26	China	3	6
27	Colombia	14	1
28	Congo, Democratic Republic of the	4	0
29	Costa Rica	10	1
30	Croatia	15	3
31	Cuba	1	0
32	Cyprus	5	26
33	Czechia	40	5
34	Denmark	0	8
35	Dominican Republic	7	1
36	Ecuador	24	0
37	Egypt	37	5
38	El Salvador	3	0
39	Equatorial Guinea	1	0
40	Estonia	5	3
41	Ethiopia	2	0
42	Finland	0	2
43	France	1	51
44	Gabon	2	0
45	Gambia	2	0
46	Georgia	13	0
47	Germany	4	69
48	Ghana	2	0
49	Gibraltar	0	2
50	Greece	5	14
51	Grenada	1	0
52	Guatemala	6	0
53	Guyana	1	0
54	Honduras	2	0
55	Hong Kong, China SAR	0	1
56	Hungary	16	2
57	India	25	8
58	Indonesia	7	0
59	Iran, Islamic Republic of	1	3
60	Iraq	2	0
61	Ireland	0	1
62	Israel	0	5
63	Italy	11	39
64	Jamaica	0	1
65	Japan	0	4
66	Jordan	9	8
67	Kazakhstan	19	5
68	Kenya	1	0
69	Korea, Republic of	7	7
70	Kuwait	6	7
71	Kyrgyzstan	15	0
72	Lao People's Democratic Republic	4	0

No.	Country	Cases as respondent State	Cases as home State of claimant
73	Latvia	9	3
74	Lebanon	5	3
75	Lesotho	2	0
76	Libya	17	0
77	Lithuania	7	3
78	Luxembourg	0	41
79	Macao, China SAR	0	1
80	Madagascar	4	0
81	Malaysia	3	4
82	Malta	0	3
83	Mauritius	3	8
84	Mexico	33	4
85	Moldova, Republic of	11	1
86	Mongolia	5	0
87	Montenegro	5	0
88	Morocco	6	0
89	Mozambique	2	0
90	Myanmar	1	0
91	Nepal	1	0
92	Netherlands	0	111
93	Nicaragua	2	0
94	Nigeria	1	0
95	North Macedonia	6	0
96	Norway	0	5
97	Oman	4	2
98	Pakistan	10	0
99	Panama	11	8
100	Paraguay	3	0
101	Peru	19	3
102	Philippines	6	0
103	Poland	30	7
104	Portugal	0	6
105	Qatar	1	5
106	Romania	17	1
107	Russian Federation	26	25
108	Rwanda	1	0
109	Saudi Arabia	8	3
110	Senegal	4	0
111	Serbia	11	0
112	Seychelles	0	1
113	Sierra Leone	1	0
114	Singapore	0	5
115	Slovakia	13	1
116	Slovenia	3	2
117	South Africa	1	3
118	Spain	52	57
119	Sri Lanka	5	0
120	Sudan	1	0

No.	Country	Cases as respondent State	Cases as home State of claimant
121	Sweden	0	10
122	Switzerland	0	37
123	Syrian Arab Republic	1	0
124	Tajikistan	2	0
125	Tanzania, United Republic of	6	0
126	Thailand	2	0
127	Trinidad and Tobago	1	0
128	Tunisia	1	1
129	Turkey	14	35
130	Turkmenistan	13	0
131	Uganda	1	0
132	Ukraine	25	14
133	United Arab Emirates	4	12
134	United Kingdom	1	86
135	United States of America	17	183
136	Uruguay	5	1
137	Uzbekistan	8	1
138	Venezuela, Bolivarian Republic of	51	1
139	Viet Nam	8	0
140	Yemen	3	0
141	Zimbabwe	3	0



# IIA ISSUES NOTE

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