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Statistics on ICSID Cases

Roger Alford (General Editor) (Notre Dame Law School) · Thursday, February 4th, 2010

ICSID has just published [a report](#) on its caseload, and there is plenty of interesting data. The one that particularly caught my attention is the chart on the basis of consent invoked to establish ICSID jurisdiction. Sixty-two percent of all cases came from Bilateral Investment Treaties, while twenty-two percent came from investment contracts. An additional eleven percent came from various multilateral treaties (Energy Charter 5%, NAFTA 4%, ASEAN 1%, DR-CAFTA 1%), and five percent came from the investment law of the host state. The fact that ICSID cases are derived from so many different sources—domestic law, contracts, bilateral treaties, and multilateral treaties—underscores the vibrancy of ICSID investment arbitration.

The other fascinating chart is the geographic distribution of ICSID cases by state party. Leading the way is South America (30%), followed by Eastern Europe and Central Asia (22%), Sub-Saharan Africa (16%), Middle East and North Africa (10%), South & East Asia and the Pacific (8%), Central America and the Caribbean (7%) and North America (6%). Again, the statistics confirm the widespread use of ICSID arbitration around the globe.

Finally, the frequency with which ICSID cases are pursued is also significant, with over half of all ICSID cases in its thirty-seven year history registered in the past six years. All of these statistics paint a fairly rosy picture of ICSID arbitration.

There are key statistics that are missing of course, which might paint a different picture. The cost of each ICSID case, the length of each ICSID proceeding, the fees charged by arbitrators, the success rate of host states, the number of dissents filed, etc. But much of that data can be found (or soon will be available) as empiricists in the academy plum the depths of investment arbitration for nuggets of useful information.

Roger Alford


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This entry was posted on Thursday, February 4th, 2010 at 5:49 pm and is filed under [Arbitration Institutions and Rules](#), [Arbitration Proceedings](#), [Investment Arbitration](#)

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