

# ICSID continues to grow as Convention comes into force for Mexico

August 2018

**Authors:** [Jonathan C. Hamilton](#), [Rafael Llano](#), [Alejandro Martínez de Hoz](#) and [Juan Pablo Hugues](#)

## A step to enhance foreign investment and international arbitration

The World Bank arbitration system continues to grow. Mexico signed the International Centre for Settlement of Investment Disputes (ICSID) Convention last January 11, 2018. Upon the Senate's approval of the Convention, Mexico's president published the instrument in Mexico's Public Gazette ("Diario Oficial de la Federación") and submitted the ratification instrument to ICSID on July 27, 2018. As a result, based on Article 68(2) of the ICSID Convention, this instrument formally came into force for Mexico on August 26, 2018. With Mexico, there are now 162 signatory states of the ICSID Convention, and 154 members. This reinforces the numerical and geographical expansion of ICSID membership, alongside continued growth of investment arbitrations administered by ICSID, as reported in the Centre's caseload statistics of 2017 and the first half of 2018.

Mexico has signed the ICSID Convention in the context of re-negotiations of the North America Free Trade Agreement (NAFTA) with the U.S. and Canada, where investor-State dispute settlement is being discussed. Mexico's ratification of the ICSID Convention enhances Mexico's international obligations with regards to the protection of foreign investment in Mexico, and Mexican investment abroad. It also enhances Mexico's commitment towards international arbitration as a means to resolve investment disputes. As an ICSID member, Mexico will be able to participate in the governance of the Centre, and to appoint arbitrators and conciliators to ICSID lists.

Beyond Mexico's attractiveness as a venue for foreign investment, the availability of ICSID arbitration could increase foreign investors' confidence in Mexico by offering a neutral and known forum for the settlement of investment disputes. Historically, investment claims against Mexico have been settled under the ICSID Additional Facility Rules, available to non-signatories of the Convention, alongside other *ad-hoc* arbitration rules, such as the Rules of the United Nations Commission on International Trade Law (UNCITRAL).

Mexico's decision to become a party to the ICSID Convention supplements Mexico's web of international commitments concerning the settlement of investment disputes, comprised by more than 40 International Investment Agreements currently in force (including investment chapters in Free Trade Agreements). Mexico's adherence to the ICSID Convention occurs also in the context of criticisms to the investor-State dispute settlement system, particularly in Latin America, where certain states have departed from a macro-economic and legal framework that includes investment treaties protecting foreign investment and provides access to international arbitration. Notably, there still are 2,668 International Investment Agreements in force around the world, and the vast majority of countries around the globe are parties to the ICSID Convention.

---

## The ICSID system

ICSID, an institution that is part of the World Bank and headquartered in Washington, D.C., is a leading, global investor-State dispute resolution forum dedicated to international investment dispute settlement. The ICSID Convention is well-known for its unique settlement system for investor-State disputes, including standard clauses and procedural rules. In accordance with the ICSID Convention, arbitral awards rendered by an ICSID Tribunal are considered to be a final judgment within ICSID member states. These awards cannot be appealed before national courts and are subject to limited annulment review within ICSID.

White & Case LLP  
701 Thirteenth Street, NW  
Washington, District of Columbia 20005-3807  
United States  
T +1 202 626 3600

White & Case, S.C.  
Torre del Bosque - PH  
Blvd. Manuel Avila Camacho # 24  
11000 Ciudad de México  
México  
T +52 55 5540 9600

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.