Investment Arbitration

ICSID Convention

- Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (opened for signature-1965) (aka the “Washington Convention”)

- provides for a neutral forum for dispute settlement between States adhering to the Convention and citizens of member States.
**Investment Arbitration**

**ICSID** is the International Centre for Dispute Settlement


“…considered to be the leading international arbitration institution devoted to investor-State dispute settlement.”

- self-contained; removed from national courts
- ICSID awards are final, although they can be annulled
- steady increase in docket over past 15 years
- part of the World Bank; located in Washington, D.C.

-some proceedings are recorded: [https://livestream.com/ICSID/events/3723192/videos/73607419](https://livestream.com/ICSID/events/3723192/videos/73607419)
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Steps in an ICSID Convention Arbitration:

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Facts about ICSID – in Annual Reports

- Number of signatory and contracting states?
- Basis of consent?
- Distribution by economic sector?
- Geographic distribution by involved State Party?
- Proceedings outcomes?
- Annulment proceedings outcomes?
- Geographic representation of arbitrators, conciliators, and ad hoc committee members?
- Costs?
Investment Arbitration

ICSID Costs

Schedule of Fees:

How much does an ICSID Arbitration Cost?

ICSID Arbitration Cost Calculator:
Investment Arbitration

Bilateral Investment Treaties (BITs) (Free sites)

ICSID Database of BITs:  

UNCTAD Investment Policy Hub:  
https://investmentpolicyhub.unctad.org/IIA/Advanced-SearchBIT

Organization of American States:  
http://www.sice.oas.org/investment/bitindex_e.asp

U.S. State Dept:  
https://www.state.gov/e/eb/ifd/bi/117402.htm
Investment Arbitration

- Materials on International Investment Arbitration in the Law Library are primarily at K3830 (4th Floor and on reserve). There are also a number of ebooks available.

- Try these Library of Congress Subject Headings in the library’s online catalog and WorldCat:
  - Investments, Foreign—Law and Legislation
  - Investments, Foreign (International Law)
  - International Commercial Arbitration

*For interlibrary loans: use ILLiad (Go to “Interlibrary Loan” link under “Library Services” page to sign up. Note that you must use your LUC email address for this service!)*
Investment Arbitration

Commercial Sources
KluwerArbitration.com (go to Law Library’s “Databases A-Z,” then to “KluwerArbitration.” Click on “KluwerArbitration” to access the database.)
Investment Arbitration

Commercial Sources

Investor-State LawGuide (go to the Law Library’s “Databases A-Z.”) Once connected to the database, you will need to click on “Log In.”
Investment Arbitration

Commercial Sources:

Westlaw (Next): Go to the “International Materials” then “International Arbitration Materials.” “International Centre for Settlement of Investment Disputes Awards” contains ICSID awards as printed in International Legal Materials (coverage starts with 1982).

APPLETON’S DIGEST contains case summaries of various investor-state arbitration awards/decisions from various courts and arbitration institutions, including ICSID.
Investment Arbitration

Commercial Sources:

**ICSID Review (Subscription)**

*ICSID Review* is an Oxford University Press Journal devoted exclusively to foreign investment law and international investment dispute settlement. It offers articles, case comments, documents, and book reviews on the law and practice relating to foreign investments, as well as the procedural and substantive law governing investment dispute resolution. Full text PDF files are available for some years - check the archive link.

Available: via the “Databases A-Z” list (use LUC login/password when off campus).
Transnational Dispute Management is a subscription-based information center for materials on international dispute management/arbitration. It includes access to the TDM Journal. Investment arbitration awards are accessible under the “L & R by Category.” Please see MM or JG for the password.

Investment Arbitration

**Investment Arbitration Reporter**

“Our service is renowned for its investigative focus: offering a window into otherwise confidential proceedings. We also offer timely and nuanced reports on the very latest legal pleadings, decisions and arbitral awards - typically before they've been discussed anywhere else.”

Available through the Law Library’s "Databases A-Z" list.
Investment Arbitration

LOCATING AWARDS

Online Subscription Sources: Investor-State LawGuide, Transnational Dispute Management (TDR), Westlaw, KluwerArbitration
Investment Arbitration

LOCATING AWARDS (Free)

ICSID: https://icsid.worldbank.org/en/Pages/cases/AdvancedSearch.aspx

UNCTAD Database: https://investmentpolicyhub.unctad.org/ISDS

Investment Treaty Arbitration: https://www.italaw.com/

International Arbitration Case Law: http://www.internationalarbitrationcaselaw.com/

NAFTA-related: http://www.naftaclaims.com/

https://www.state.gov/s/l/c3439.htm
Investment Arbitration

Other Sources of Investment Arbitral Decisions:


*The print reports contain subject digests.


*Digest of ICSID Awards and Decisions, 1974-2002: Law Main Stacks K3829.5 .H37 2013*
Iran-United States Claims Tribunal

- established in 1981 as an outgrowth of the hostage crisis
- mechanism for resolving, through binding arbitration, covered claims that had not been previously settled
- underlying declarations and agreements known as the “Algiers Accords”
- seat is in The Hague
- 9 members
- jurisdiction to resolve 3 types of cases: private claims, official claims, and interpretive disputes
- awards, decisions, and significant orders currently fill 38 volumes of the Iran-United States Tribunal Reports

**Iran-United States Claims Tribunal**

- Jurisprudence serves as an essential resource for arbitrators, scholars, and practitioners.

- Longest running international arbitration body in history.

- 45 percent of awards on the merits and 20 percent of awards and decisions on jurisdiction in ICSID cited Tribunal precedent. *

- Tribunal precedent “remains an enormously important resource for arbitrators in investment treaty arbitrations and an indispensable resource for counsel in those cases.” **


Iran-United States Claims Tribunal

-- website at [http://www.iusct.net](http://www.iusct.net) (free registration before use)

-- [Westlaw](http://www.westlaw.com) (Next): Go to “International Materials” then “All Other International Materials” then “Iran”

-- [KluwerArbitration](http://www.kluweronline.com) (under Iran-U.S. Claims Tribunal as Organization)

-- LUC Law Library has earlier volumes (1-28) of the Tribunal Reports at JX 238 .I7
Current Awareness

**LAW360**: Available through the “Databases A-Z” list

**Practical Law**: Practical Law available in Westlaw
International Arbitration

March 18, 2019

Venezuela Adds Trump's Oil Giant Sanctions To WTO Tussle

The Venezuelan government has beefed up its challenge of U.S. sanctions at the World Trade Organization to include the Trump administration's bombshell decision to sanction the country's state-owned oil corporation, according to WTO a document published late Friday.

March 18, 2019

US Frees Banks To Transfer UK Swaps To EU In Hard Brexit

The Fed has set out measures to allow banks to transfer so-called legacy swaps from the U.K. to a subsidiary based in Europe or America without triggering tougher new margin requirements if Britain crashes out of the bloc without a deal.

March 15, 2019

Guaidó Looks To Challenge $8.7B ConocoPhillips Award

Venezuelan opposition leader Juan Guaidó will look to challenge a more than $8.7 billion arbitral award issued to ConocoPhillips after three oil projects it had invested in were nationalized, according to a Thursday report that was tweeted by the self-declared interim president's attorney general.

March 15, 2019

Venezuelan Ministry Says $129M Award Suit Should Be Axed

Venezuela's defense ministry has told a D.C. federal court it would be "more than justified" tossing a suit to enforce a $128.9 million award issued to a subsidiary of U.S. shipbuilder Huntington Ingalls Industries Inc., pointing to an order issued by another court retaining jurisdiction over proceedings in Venezuela.
## International Arbitration

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### Recent International Arbitration Updates

[List of recent updates]
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Writing the Award

ICSID- Rule 47

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Writing the Award

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Writing the Award


• More specific to the ICC, but may still be of general assistance.
Reminder: A comprehensive LibGuide on International Commercial and Investment Arbitration Research that includes many of the aforementioned sources is available at: http://lawlibguides.luc.edu/aecontent.php?pid=116835

Go to the Law Library’s web page, then Research, then Research Guides, then “International Commercial & Investment Arbitration Research.”