

## ICSID Case Dataset Codebook

### Overview

The purpose of this dataset is to collect information about government actors involved in the investment disputes adjudicated through the International Centre for Settlement of Investment Disputes (ICSID) Summary details about the cases are published via its website: [icsid.worldbank.org](https://icsid.worldbank.org). In addition, ICSID publishes the text of its awards and other decisions for some cases.

For this dataset, coders will review all concluded cases published on the ICSID website to identify the host government actors involved in the dispute. Where available, coders will rely on the facts presented in ICSID's published decisions. Where case documents are not available, coders will rely on third-party media sources to attempt to identify the actors involved.

### Government Actors

The primary variable of interest is the government actor whose actions form the basis of the investment complaint. In many cases, multiple government actors are involved. The primary actor is identified as the government actor whose *discretionary* actions are most represented in the investor's allegations.

*Discretionary* means that the actor had some leeway in deciding how to apply the rules in question.

Example: The chief executive issues a decree on foreign investment and a government ministry executes the terms of the decree. The discretionary action would be attributed to the chief executive who issued the decree. However, if the decree permits the ministry some level of independent decision-making and the ministry's actions result from that decision, then the discretionary act would fall to the ministry,

Example: The legislature passes an investment law and, under that law, a public company signs a contract with a foreign investor. If the public company breaches the contract, the discretionary act falls to the public company and not to the legislature. In contrast, if the legislature passes a new law that requires the public company to deviate from the terms of the contract, then the discretionary act is attributed to the legislature and not the public company.

Example: The legislature passes an expropriation bill, which the President signs into law and the courts uphold it. While all three actors exercised some form of discretion, the primary actor would most likely be the legislature that crafted the specifics of the law. In contrast, if the legislature appears to have merely rubber stamped legislation put forth by the president, then the chief executive would be the primary discretionary actor. Or, if a court had issued an independent ruling that invalidates or modifies the terms of the legislation, then the court would be the primary discretionary actor.

Given the complexity of these cases, it is likely that coders will have difficulty deciding on a single primary actor in some cases. These cases should be noted for further review by the research group.

**Primary Government Actor:**

Identify the actor by putting a "1". Just leave blank if the government actor is not identifiable.

*Drop:* Coded 1 if there is insufficient information to identify a primary government actor.

*Executive:* These are actions by the president or prime minister. In many cases this will be by executive decree. Some ICSID cases mention government decrees. Check to see if this is an executive decree.

*Legislature:* This is when the action is taken by a national legislature (house, senate, parliament). The key is that a law is passed that adversely affects the investor. This usually has to be signed into law by the President, but if the law originated in the Legislature, code it as a Legislative expropriation.

*Ministry:* These are actions attributable to a cabinet-level ministry or department, including actions by a lower level bureaucracy that are carried out pursuant to orders or instructions from a cabinet-level ministry.

*Court:* In some rare cases a court action can cause an expropriation, like a court ruling that an agreement between parties is illegal, leading to a backing out of an agreement. But, the key is that the court has to initiate the expropriation. If another actor (say the President) has a decree and then the court says this decree is constitutional, it is an executive expropriation.

*Ministry:* In many cases expropriations will be done by a ministry or government agency. Any agency that is an arm of the national government counts as a ministry (Ministry of finance, EPA, tax collection agency, etc). Cases should be coded in this category if the ministry exercised discretion in executing the given rules. If the ministry merely carried out rules without discretion, then the discretionary act lies with the legislature or chief executive that passed the rules.

*Other:* All other actors can be coded here. This could include local governments, state owned enterprises, state legislatures, etc. When in doubt, code it as other. Description: Provide the specific name of the actor (Ministry of Finance) and a very brief description of the agency (if it isn't obvious from the name). Also, include the specific act (Passed Hydrocarbon Law)

## **Control Variables**

Number

Control number for each observation in the dataset.

ISCID Case Number

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Date Registered

The date the country filed for arbitration. This is under “date registered” on the website of cases.

ISCID Panel Constituted

The dated on which the ICSID panel was constituted.

Investor

Use the investor name from the ICSID case name. Include the full name

Home Country

This isn't always obvious.

Host Country

This should be identified in the title. No need for the formal name (United States of Mexico, just use Mexico).

Subject Matter

The industry in which the investment occurred.

Outcome/Status

The final resolution of the case per the ICSID website.

Date Concluded

This is the date of the conclusion of the case. This is could be through an award or the dropping of the case. Use the last date if there are multiple arbitration panels. Date should be listed in the “Outcome of the proceeding” part of the website.

Expropriation Claim

Coded 1 if the investor lists expropriation as one of the claims against the host state.

### **Note Variables**

These fields were primarily used by research assistants as a means to communicate further details about the case to the researchers.

Formal Name of the Primary Government Actor

The name, as listed in the source document, for the government actor that the research assistant has identified as the primary actor.

**Describe the Action taken**

A short description of the government action that led to the dispute.

**Description of Dispute and Ruling**

A short description of the ICSID panel's actions and conclusion of the case.

**Source**

The url for any non-ICSID sources used to gather the information.

