



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

January 24, 2012

Via email: ministryofjustice@gov.ab.ca

The Honourable Verlyn Olson, Q.C.
Minister of Justice and Attorney General
Government of Alberta
403 Legislature Building
10800 97 Avenue
Edmonton, AB T5K 2B6

Dear Minister Olson,

Re: ICSID Convention

I write on behalf of the International Law Section of the Canadian Bar Association (CBA Section) to urge the Alberta government to make a fresh and sustained effort to enact legislation to allow for the ratification of the 1965 *Convention on the Settlement of Investment Disputes Between States and Nationals of Other States* (ICSID Convention) without further delay, for the benefit of Alberta's investors and the Alberta economy as a whole.

The Convention establishes the International Center for the Settlement of Investment Disputes (ICSID) as an autonomous international institution whose primary purpose is to provide facilities for conciliation and arbitration of international investment disputes. It is the leading institution for resolving investor-state disputes (Briefing Note attached). As of May 2011, 157 countries have signed the treaty but ten, including Canada, have yet to ratify it. Canada signed the ICSID Convention in December 2006 and passed *An Act to Implement the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention)* in March 2008. This legislation has not yet been brought into force, awaiting provincial and territorial implementing legislation. For the past five years, CBA has urged the federal, provincial and territorial governments to ratify the ICSID Convention and enact legislation to bring it into effect, culminating in the passage of a Council resolution to this effect at its 2011 Mid-Winter meeting in Charlevoix, Québec (attached).

Alberta benefits from international commerce, particularly in the Natural Resources and Extraction sectors. Many of our members advise business clients in Alberta on their overseas investments. Companies like Nexen and Smart Talisman demonstrate the importance of international investment rules to the economic future of Alberta. Unfortunately, Canada's failure to ratify the ICSID

Convention prevents companies from accessing the most effective dispute settlement mechanism available for international investors.

Ratification of the ICSID Convention would advance two important economic goals:

- First, ratification would enhance international investor confidence in Alberta, making it a more attractive location for foreign investment by reducing the risk to the incoming investor.
- Second, ratification will reduce the risk to Canadian companies of their foreign investment activities thereby effectively reducing the costs of those investments.

Many countries in which Canadian companies invest most frequently are ICSID members. Moreover, arbitration pursuant to the ICSID Convention is acknowledged under NAFTA, and could be used to protect Canadian investments in the United States.

Forty-five years of experience since the ICSID Convention make it abundantly clear that the benefits of membership are significant and there are no costs to the province.

We strongly urge the Alberta government to recognize and take advantage of the benefits of Canada ratifying the ICSID Convention and to take necessary steps to implement enabling legislation without further delay.

Yours truly,

(original signed by Noah Arshinoff for Charlotte M. Janssen and Richard Lane)

Charlotte M. Janssen
Chair,
International Law Section

Richard Lane
Executive Member,
International Law Section

cc: Alexander Hu
Co-Chair
International Law Section
Canadian Bar Association – Alberta Branch

Steve R. Will
Co-Chair
International Law Section
Canadian Bar Association – Alberta Branch

Terry Evenson
Executive Director
Canadian Bar Association – Alberta Branch

Encl.

Convention on the Settlement of Investment Disputes between States and Nationals of Other States

WHEREAS the International Centre for Settlement of Investment Disputes (ICSID) is an autonomous international institution of the World Bank Group whose primary purpose is to provide facilities for conciliation and arbitration of international investment disputes;

WHEREAS 144 States have ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention);

WHEREAS Canada is the only G-8 State and one of only three OECD States that has not ratified the ICSID Convention;

WHEREAS ICSID is the leading international institution for the arbitration and settlement of investor-state disputes and ratification of ICSID will enhance investor confidence in Canada;

Convention pour le règlement des différends relatifs aux investissements entre États et ressortissants d'autres États

ATTENDU QUE le Centre international pour le règlement des différends relatifs aux investissements (CIRDI) est une organisation internationale autonome du Groupe de la Banque mondiale, dont l'objet premier est d'offrir des moyens de conciliation et d'arbitrage pour régler des différends relatifs aux investissements;

ATTENDU QUE 114 États ont ratifié la Convention pour le règlement des différends relatifs aux investissements entre États et ressortissants d'autres États (la Convention du CIRDI);

ATTENDU QUE le Canada est le seul pays du G8 et l'un de trois États de l'OCDE seulement à ne pas avoir ratifié la Convention du CIRDI;

ATTENDU QUE le CIRDI est la principale organisation internationale chargée de l'arbitrage et du règlement de différends relatifs aux investissements entre États et que la ratification de la Convention du CIRDI stimulera la confiance des investisseurs au Canada;

Resolution 11-03-M**Résolution 11-03-M**

BE IT RESOLVED THAT the Canadian Bar Association urge the federal, provincial and territorial governments to ratify the ICSID Convention and enact legislation to bring it into effect.

QU'IL SOIT RÉSOLU QUE l'Association du Barreau canadien exhorte le gouvernement fédéral et les gouvernements des provinces et des territoires à ratifier la Convention du CIRDI et à adopter les lois nécessaires pour la mettre en œuvre.

Certified true copy of a resolution carried by the Council of the Canadian Bar Association at the Mid-Winter Meeting held in Charlevoix, QC, February 19-20, 2011.

Copie certifiée d'une résolution adoptée par le Conseil de l'Association du Barreau canadien, lors de l'Assemblée de la mi-hiver, à Charlevoix, QC, du 19 au 20 février 2011.

**John D.V. Hoyles
Chief Executive Officer/Chef de la direction**

Briefing Note

Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (ICSID Convention)¹

What is the ICSID Convention?

- It is a 1965 international convention that established an autonomous international arbitration institution as part of the World Bank.
- The primary purpose of ICSID is to provide facilities for resolving investment disputes between international investors and states in which investments are made.
- 147 states have ratified the Convention, and an additional 10 – including Canada – have signed but not yet ratified it.
- Canada is the only G-8 state and one of only three OECD states that has not ratified the Convention.

What is the status of Canada's ratification of the ICSID Convention?

- Canada signed the ICSID Convention in December 2006 and passed federal implementing legislation in March 2008 – but so far the Federal Government has not proclaimed the implementing legislation into force.
- Four provinces – British Columbia, Newfoundland and Labrador, Ontario and Saskatchewan – and two of three territories – Northwest Territories and Nunavut – have passed implementing legislation.

What is holding Canada back?

- The reason for the delay seems to be Canada's federal structure. Canada's constitution allocates treaty-making authority to the Federal Government. However, provincial and territorial concurrence is sought when a treaty deals with a subject matter wholly or partly within their jurisdiction.
- ICSID relates, in part, to an area of provincial and territorial jurisdiction. The federal government appears to want all provinces and territories to pass implementing legislation before it proclaims its legislation and ratifies the Convention.
- Whatever the reasons for the delay, the merits of ICSID do not appear to be the problem. When ratification legislation was being considered in the House of

¹ This note has been adapted from a Kluwer Arbitration Blog posting by Barry Leon and Andrew McDougall of Perley-Robertson, Hill & McDougall LLP, August 24, 2010, online: http://kluwerarbitrationblog.com/blog/2010/08/24/why-has-canada-not-ratified-the-icsid-convention/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+KluwerArbitrationBlogFull+%28Kluwer+Arbitration+Blog+-+Latest+Entries%29

Commons, Members of Parliament generally agreed that ratification is in Canada's interest.

Why should provincial and territorial governments care about ICSID?

- The benefits of ICSID membership to provincial and territorial economies and to Canadian companies, large and small, could be significant.
- The provinces and territories have vast natural resources such as in oil and gas, power and forestry.
- They also have head offices for companies active around the world in these sectors plus others such as aerospace, technology and engineering.
- Ratification of ICSID would enhance Canada's image abroad as an investment-friendly country. Conversely, Canada's failure to ratify has the opposite effect on its reputation.
- The availability of binding ICSID arbitration increases foreign investor confidence in Canada, making it an attractive location for foreign investment by reducing the risk to incoming investors.
- The majority of countries in which Canada's companies invest most frequently are ICSID members. If Canada ratified the ICSID Convention, Canadian companies would have reduced risk in their foreign investment activities. This would be beneficial to Canada.

What does the private sector say about the need for Canada to ratify ICSID?

- The Canadian Chamber of Commerce has called for Canada to ratify ICSID.
- The Canadian Bar Association has called for Canada to ratify ICSID.
- ICC Canada, the Canadian National Committee of the International Chamber of Commerce's International Court of Arbitration, has called for Canada to ratify ICSID.



L'ASSOCIATION DU BARREAU CANADIEN

THE CANADIAN BAR ASSOCIATION

Division du Québec • Québec Branch



Le 10 novembre 2011

PERSONNEL ET CONFIDENTIEL

Honorable Jean-Marc Fournier
Ministre de la Justice
Gouvernement du Québec
Édifice Louis-Joseph-Pigeon
1200, route de l'Église
9^e étage
Québec (Québec) G1V 4M1

Objet : Convention du CIRDI

Monsieur le ministre,

Je vous écris au nom de la Section du droit international de la Division du Québec de l'Association du Barreau canadien (ABC), afin d'inviter le gouvernement du Québec à mener et à poursuivre, avec diligence, les efforts nécessaires pour permettre la ratification de la *Convention de 1965 pour le règlement des différends relatifs aux investissements entre États et ressortissants d'autres États* (Convention du CIRDI) et ce, dans l'intérêt des investisseurs du Québec ainsi que de l'économie du Québec dans son ensemble.

La Convention du CIRDI fait du Centre international pour le règlement des différends relatifs aux investissements (le CIRDI) une institution internationale autonome dont l'objectif premier est d'offrir des moyens de conciliation et d'arbitrage pour régler les différends internationaux relatifs aux investissements. C'est la principale institution à laquelle peuvent s'adresser un État et un ressortissant d'un autre État pour la résolution d'un différend qui les oppose relativement à un investissement. En mai 2011, 157 pays avaient signé la Convention du CIRDI, mais dix d'entre eux, dont le Canada, ne l'avaient pas encore ratifiée. Le Canada avait pourtant signé la Convention du CIRDI en décembre 2006, puis avait adopté la *Loi de mise en œuvre de la Convention pour le règlement des différends relatifs aux investissements entre États et ressortissants d'autres États* (Convention du CIRDI) en mars 2008. Cette loi n'est toujours pas en vigueur, en raison du fait que les lois provinciales et territoriales de mise en œuvre n'ont toujours pas été adoptées par le Québec et six provinces et territoires. Au cours des cinq dernières années, l'ABC a exhorté le gouvernement fédéral et les gouvernements provinciaux et territoriaux à ratifier la Convention du CIRDI et à adopter des lois pour la

mettre en œuvre. Les efforts de l'ABC dans ce sens ont culminé avec une résolution à cet effet (voir copie ci-jointe), qui a été adoptée par son Conseil lors de son Assemblée de la mi-hiver 2011, qui a eu lieu dans la région de Charlevoix (Québec).

Nous avons pris connaissance et nous nous réjouissons de l'initiative annoncée par le premier ministre le 8 novembre relativement au lancement d'Export Québec qui vise à propulser les entreprises du Québec vers de nouveaux marchés.

Le Québec bénéficie du commerce international, tout particulièrement dans les secteurs de la métallurgie, de l'aéronautique et du papier et alors que nous tentons de relancer nos exportations, nous sommes d'avis que le Québec se doit d'harmoniser son cadre juridique en appui à cet effort.

Nombreux sont les membres de l'ABC qui donnent aux sociétés ou entreprises du Québec qui sont leurs clientes des conseils en matière d'investissements étrangers. Des sociétés comme Bombardier, Rio Tinto-Alcan, Alcoa, Domtar, Cascades et Kruger sont la preuve concrète de l'importance, pour l'avenir de l'économie, du Québec des règles internationales sur l'investissement. Malheureusement, à défaut de ratifier la Convention du CIRDI, le Canada empêche ces sociétés d'avoir accès au plus efficace des régimes de règlement des différends qui sont à la disposition des investisseurs internationaux.

La ratification de la Convention du CIRDI favoriserait deux objectifs économiques importants :

- Premièrement, cette ratification rehausserait la confiance des investisseurs internationaux au Québec et aurait pour effet de rendre notre Province plus attrayante pour les investisseurs étrangers, en réduisant les risques pour ceux qui se préparent à y investir.
- Deuxièmement, cette ratification réduirait les risques que courent les sociétés canadiennes dans leurs activités d'investissement à l'étranger, diminuant par là même les coûts de ces investissements.

Un grand nombre des pays où investissent le plus souvent les sociétés canadiennes sont membres du CIRDI. En outre, l'ALÉNA reconnaît les procédures d'arbitrage qui sont tenues conformément à la Convention du CIRDI, et de telles procédures pourraient donc servir à protéger les investissements canadiens aux États-Unis.

L'expérience de 40 années qui se sont écoulées depuis la signature de la Convention du CIRDI démontre tout à fait clairement que les avantages de l'adhésion au CIRDI sont considérables et que cette adhésion n'entraîne pas de coûts.

Nous prions instamment le gouvernement du Québec de reconnaître les avantages de la ratification de la Convention du CIRDI, d'en profiter et d'appuyer les initiatives de relances de nos exportations en adoptant rapidement la législation de mise en œuvre nécessaire.

Veillez agréer, Monsieur le ministre, l'expression de mes salutations distinguées.

A handwritten signature in black ink, appearing to read 'M. F. Sheehan', with a long horizontal flourish extending to the right.

Martin F. Sheehan

Président de l'Association du Barreau canadien, Division du Québec

MFS/gt

p.j.

**Convention on the Settlement
of Investment Disputes
between States and Nationals
of Other States**

**Convention pour le règlement
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investissements entre États et
ressortissants d'autres États**

WHEREAS the International Centre for Settlement of Investment Disputes (ICSID) is an autonomous international institution of the World Bank Group whose primary purpose is to provide facilities for conciliation and arbitration of international investment disputes;

ATTENDU QUE le Centre international pour le règlement des différends relatifs aux investissements (CIRDI) est une organisation internationale autonome du Groupe de la Banque mondiale, dont l'objet premier est d'offrir des moyens de conciliation et d'arbitrage pour régler des différends relatifs aux investissements;

WHEREAS 144 States have ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention);

ATTENDU QUE 114 États ont ratifié la Convention pour le règlement des différends relatifs aux investissements entre États et ressortissants d'autres États (la Convention du CIRDI);

WHEREAS Canada is the only G-8 State and one of only three OECD States that has not ratified the ICSID Convention;

ATTENDU QUE le Canada est le seul pays du G8 et l'un de trois États de l'OCDE seulement à ne pas avoir ratifié la Convention du CIRDI;

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ATTENDU QUE le CIRDI est la principale organisation internationale chargée de l'arbitrage et du règlement de différends relatifs aux investissements entre États et que la ratification de la Convention du CIRDI stimulera la confiance des investisseurs au Canada;

Resolution 11-03-M

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**John D.V. Hoyles
Chief Executive Officer/Chef de la direction**



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

January 24, 2012

Via email: marie-claude.blais@gnb.ca

The Honourable Marie-Claude Blais, Q.C.
Minister of Justice and Consumer Affairs
Government of New Brunswick
Centennial Building
P. O. Box 6000
Fredericton, NB E3B 5H1

Dear Minister Blais,

Re: ICSID Convention

I write on behalf of the International Law Section of the Canadian Bar Association (CBA Section) to urge the New Brunswick government to make a fresh and sustained effort to enact legislation to allow for the ratification of the 1965 *Convention on the Settlement of Investment Disputes Between States and Nationals of Other States* (ICSID Convention) without further delay, for the benefit of New Brunswick's investors and the New Brunswick economy as a whole.

The Convention establishes the International Center for the Settlement of Investment Disputes (ICSID) as an autonomous international institution whose primary purpose is to provide facilities for conciliation and arbitration of international investment disputes. It is the leading institution for resolving investor-state disputes (Briefing Note attached). As of May 2011, 157 countries have signed the treaty but ten, including Canada, have yet to ratify it. Canada signed the ICSID Convention in December 2006 and passed *An Act to Implement the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention)* in March 2008. This legislation has not yet been brought into force, awaiting provincial and territorial implementing legislation. For the past five years, CBA has urged the federal, provincial and territorial governments to ratify the ICSID Convention and enact legislation to bring it into effect, culminating in the passage of a Council resolution to this effect at its 2011 Mid-Winter meeting in Charlevoix, Québec (attached).

New Brunswick benefits from international commerce, particularly in the Natural Resources and Maritime sectors. Many of our members advise business clients in New Brunswick on their overseas investments. Companies like Irving Group of Companies demonstrate the importance of international investment rules to the economic future of New Brunswick. Unfortunately, Canada's

failure to ratify the ICSID Convention prevents companies from accessing the most effective dispute settlement mechanism available for international investors.

Ratification of the ICSID Convention would advance two important economic goals:

- First, ratification would enhance international investor confidence in New Brunswick, making it a more attractive location for foreign investment by reducing the risk to the incoming investor.
- Second, ratification will reduce the risk to Canadian companies of their foreign investment activities thereby effectively reducing the costs of those investments.

Many countries in which Canadian companies invest most frequently are ICSID members. Moreover, arbitration pursuant to the ICSID Convention is acknowledged under NAFTA, and could be used to protect Canadian investments in the United States.

Forty-five years of experience since the ICSID Convention make it abundantly clear that the benefits of membership are significant and there are no costs to the province.

We strongly urge the New Brunswick government to recognize and take advantage of the benefits of Canada ratifying the ICSID Convention and to take necessary steps to implement enabling legislation without further delay.

Yours truly,

(original signed by Noah Arshinoff for Charlotte M. Janssen and Richard Lane)

Charlotte M. Janssen
Chair,
International Law Section

Richard Lane
Executive Member,
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cc: Denise Scott
Executive Director
Canadian Bar Association – New Brunswick Branch

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January 24, 2012

Via email: pictoucentremla@rosslandry.ca

The Honourable Ross Landry
Attorney General and Minister of Justice
Government of Nova Scotia
5151 Terminal Road
P.O. Box 7
Halifax, NS B3J 2L6

Dear Minister Landry,

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Richard Lane
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cc: Tina Tucker
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ATTENDU QUE le CIRDI est la principale organisation internationale chargée de l'arbitrage et du règlement de différends relatifs aux investissements entre États et que la ratification de la Convention du CIRDI stimulera la confiance des investisseurs au Canada;

Resolution 11-03-M**Résolution 11-03-M**

BE IT RESOLVED THAT the Canadian Bar Association urge the federal, provincial and territorial governments to ratify the ICSID Convention and enact legislation to bring it into effect.

QU'IL SOIT RÉSOLU QUE l'Association du Barreau canadien exhorte le gouvernement fédéral et les gouvernements des provinces et des territoires à ratifier la Convention du CIRDI et à adopter les lois nécessaires pour la mettre en œuvre.

Certified true copy of a resolution carried by the Council of the Canadian Bar Association at the Mid-Winter Meeting held in Charlevoix, QC, February 19-20, 2011.

Copie certifiée d'une résolution adoptée par le Conseil de l'Association du Barreau canadien, lors de l'Assemblée de la mi-hiver, à Charlevoix, QC, du 19 au 20 février 2011.

**John D.V. Hoyles
Chief Executive Officer/Chef de la direction**

Briefing Note

Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (ICSID Convention)¹

What is the ICSID Convention?

- It is a 1965 international convention that established an autonomous international arbitration institution as part of the World Bank.
- The primary purpose of ICSID is to provide facilities for resolving investment disputes between international investors and states in which investments are made.
- 147 states have ratified the Convention, and an additional 10 – including Canada – have signed but not yet ratified it.
- Canada is the only G-8 state and one of only three OECD states that has not ratified the Convention.

What is the status of Canada's ratification of the ICSID Convention?

- Canada signed the ICSID Convention in December 2006 and passed federal implementing legislation in March 2008 – but so far the Federal Government has not proclaimed the implementing legislation into force.
- Four provinces – British Columbia, Newfoundland and Labrador, Ontario and Saskatchewan – and two of three territories – Northwest Territories and Nunavut – have passed implementing legislation.

What is holding Canada back?

- The reason for the delay seems to be Canada's federal structure. Canada's constitution allocates treaty-making authority to the Federal Government. However, provincial and territorial concurrence is sought when a treaty deals with a subject matter wholly or partly within their jurisdiction.
- ICSID relates, in part, to an area of provincial and territorial jurisdiction. The federal government appears to want all provinces and territories to pass implementing legislation before it proclaims its legislation and ratifies the Convention.
- Whatever the reasons for the delay, the merits of ICSID do not appear to be the problem. When ratification legislation was being considered in the House of

¹ This note has been adapted from a Kluwer Arbitration Blog posting by Barry Leon and Andrew McDougall of Perley-Robertson, Hill & McDougall LLP, August 24, 2010, online: http://kluwerarbitrationblog.com/blog/2010/08/24/why-has-canada-not-ratified-the-icsid-convention/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+KluwerArbitrationBlogFull+%28Kluwer+Arbitration+Blog+-+Latest+Entries%29

Commons, Members of Parliament generally agreed that ratification is in Canada's interest.

Why should provincial and territorial governments care about ICSID?

- The benefits of ICSID membership to provincial and territorial economies and to Canadian companies, large and small, could be significant.
- The provinces and territories have vast natural resources such as in oil and gas, power and forestry.
- They also have head offices for companies active around the world in these sectors plus others such as aerospace, technology and engineering.
- Ratification of ICSID would enhance Canada's image abroad as an investment-friendly country. Conversely, Canada's failure to ratify has the opposite effect on its reputation.
- The availability of binding ICSID arbitration increases foreign investor confidence in Canada, making it an attractive location for foreign investment by reducing the risk to incoming investors.
- The majority of countries in which Canada's companies invest most frequently are ICSID members. If Canada ratified the ICSID Convention, Canadian companies would have reduced risk in their foreign investment activities. This would be beneficial to Canada.

What does the private sector say about the need for Canada to ratify ICSID?

- The Canadian Chamber of Commerce has called for Canada to ratify ICSID.
- The Canadian Bar Association has called for Canada to ratify ICSID.
- ICC Canada, the Canadian National Committee of the International Chamber of Commerce's International Court of Arbitration, has called for Canada to ratify ICSID.



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

January 24, 2012

Via email: jasherry@gov.pe.ca

The Honourable Janice Sherry
Minister of Environment, Labour and Justice
Government of Prince Edward Island
Fourth Floor, Shaw Building, South
95 Rochford Street
P.O. Box 2000
Charlottetown, PEI C1A 7N8

Dear Minister Sherry,

Re: ICSID Convention

I write on behalf of the International Law Section of the Canadian Bar Association (CBA Section) to urge the Prince Edward Island (PEI) government to make a fresh and sustained effort to enact legislation to allow for the ratification of the 1965 *Convention on the Settlement of Investment Disputes Between States and Nationals of Other States* (ICSID Convention) without further delay, for the benefit of PEI's investors and the PEI economy as a whole.

The Convention establishes the International Center for the Settlement of Investment Disputes (ICSID) as an autonomous international institution whose primary purpose is to provide facilities for conciliation and arbitration of international investment disputes. It is the leading institution for resolving investor-state disputes (Briefing Note attached). As of May 2011, 157 countries have signed the treaty but ten, including Canada, have yet to ratify it. Canada signed the ICSID Convention in December 2006 and passed *An Act to Implement the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention)* in March 2008. This legislation has not yet been brought into force, awaiting provincial and territorial implementing legislation. For the past five years, CBA has urged the federal, provincial and territorial governments to ratify the ICSID Convention and enact legislation to bring it into effect, culminating in the passage of a Council resolution to this effect at its 2011 Mid-Winter meeting in Charlevoix, Québec (attached).

Ratification of the ICSID Convention would advance two important economic goals:

- First, ratification would enhance international investor confidence in PEI, making it a more attractive location for foreign investment by reducing the risk to the incoming investor.

- Second, ratification will reduce the risk to Canadian companies of their foreign investment activities thereby effectively reducing the costs of those investments.

Many countries in which Canadian companies invest most frequently are ICSID members. Moreover, arbitration pursuant to the ICSID Convention is acknowledged under NAFTA, and could be used to protect Canadian investments in the United States.

Forty-five years of experience since the ICSID Convention make it abundantly clear that the benefits of membership are significant and there are no costs to the province.

We strongly urge the PEI government to recognize and take advantage of the benefits of Canada ratifying the ICSID Convention and to take necessary steps to implement enabling legislation without further delay.

Yours truly,

(original signed by Noah Arshinoff for Charlotte M. Janssen and Richard Lane)

Charlotte M. Janssen
Chair,
International Law Section

Richard Lane
Executive Member,
International Law Section

cc : Jane Smith
Executive Director
Canadian Bar Association – Prince Edward Island Branch

Encl.

Convention on the Settlement of Investment Disputes between States and Nationals of Other States

WHEREAS the International Centre for Settlement of Investment Disputes (ICSID) is an autonomous international institution of the World Bank Group whose primary purpose is to provide facilities for conciliation and arbitration of international investment disputes;

WHEREAS 144 States have ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention);

WHEREAS Canada is the only G-8 State and one of only three OECD States that has not ratified the ICSID Convention;

WHEREAS ICSID is the leading international institution for the arbitration and settlement of investor-state disputes and ratification of ICSID will enhance investor confidence in Canada;

Convention pour le règlement des différends relatifs aux investissements entre États et ressortissants d'autres États

ATTENDU QUE le Centre international pour le règlement des différends relatifs aux investissements (CIRDI) est une organisation internationale autonome du Groupe de la Banque mondiale, dont l'objet premier est d'offrir des moyens de conciliation et d'arbitrage pour régler des différends relatifs aux investissements;

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