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**Operationalization of the Advisory Centre on  
International Investment Dispute Resolution**

**Criteria to determine the location of the headquarters and  
regional offices**

**I. Introduction**

1. This document sets forth a list of factors to consider when determining the location of the headquarters of the Advisory Centre as well as any regional offices, among which those that should form the key criteria could be identified.
2. Article 9 of the Statute of the Advisory Centre addresses this issue.

***Article 9***

***Legal status and liability***

*1. The Advisory Centre shall have full international legal personality. The legal capacity of the Advisory Centre shall include the capacity to contract, to acquire and dispose of immovable and movable property and to institute legal proceedings.*

*2. The Advisory Centre shall be headquartered in [to be determined]. The Advisory Centre shall conclude a host country agreement with [host State/Government to be determined]. The Governing Committee may decide to relocate the headquarters, either temporarily or permanently, in the event that exceptional circumstances so significantly impact the operational effectiveness of the headquarters that the existing location is no longer suitable.*

*3. The Governing Committee may decide to establish regional offices of the Advisory Centre.*

3. Article 9(2) provides that the location of the headquarters of the Advisory Centre will be set forth in the Statute. It is anticipated that the Statute with the location would be presented to the General Assembly, possibly as a protocol to the multilateral instrument on investor-State dispute settlement reform (MIIR).<sup>1</sup> The paragraph further provides that the host State of the headquarters would conclude a host country agreement with the Advisory Centre addressing among others the privileges and immunities.

4. Article 9(3) provides that the Governing Committee may decide to establish regional offices of the Advisory Centre and therefore, the location(s) thereof need not be specified in the Statute itself.

**II. Factors to consider in determining the location of the headquarters**

5. The discussions may focus on which of the following factors should form the criteria to determine the location of the headquarters, including any weight to be given to each. The following lists those mentioned during the deliberations of the Working Group and the Commission.<sup>2</sup>

***Support from the host State/Government***

6. The support to be provided by the host State or Government's could be a factor to consider, including its willingness to contribute financially to the sustainable operation of the Advisory Centre, to provide premises and other infrastructure for the

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<sup>1</sup> See [A/CN.9/WG.III/WP.246](#), Draft multilateral instrument on ISDS reform, article 2.

<sup>2</sup> See [A/79/17](#), para. 125, and [A/CN.9/1167](#), paras. 31-38.

headquarters and to establish legal frameworks that would facilitate the operations of the Advisory Centre, including the host country agreement.

#### ***Stable environment***

7. The location of the headquarters should guarantee a stable environment for the operations of the Advisory Centre. The headquarters should be located in a secure and politically stable environment to avoid disruptions in its operations (in particular, financial operations) and to ensure long-term planning. A favourable legal and regulatory framework for international operations would also be preferred.

#### ***Accessibility***

8. The headquarters should be easily accessible to Members, both in the geographical and economic sense. Proximity to airports, highways and public transport networks would be important. Accessibility should also not be restricted due to political, legal or logistical challenges.

9. Accessibility to Members that are expected to benefit particularly from the services of the Advisory Centre (“beneficiaries”) could be a factor to consider. Article 2(2) of the Statute foresees that least developed and developing countries would be given priority as beneficiaries. Proximity to those beneficiaries would allow for more frequent and effective communication, including the holding of meetings with their legal teams. This can be crucial in understanding the nuances of the case and ensuring that relevant information is shared. However, with the advancements in communication tools, physical proximity may become less critical. Moreover, it is likely that beneficiaries will only be identified after the Statute is open for signature.

10. Proximity to the beneficiaries would also have an impact on the costs related to the provision of services by the Advisory Centre. Travel costs of staff members to conduct preliminary assessment of a case or to deliver capacity building workshops in Member States would be affected. Travel costs of the representatives of Member States to take part in the activities of the Advisory Centre (for example, to attend annual meetings or technical assistance workshops) should also be taken into account as this would have an impact on accessibility.

11. Due consideration could also be given to the language in which the services would be provided by the Advisory Centre, including the language used by the beneficiaries. The headquarters should be in a region where potential users share a common language and where the staff members of the Centre can work in that language.

#### ***Proximity to dispute resolution venues***

12. Another factor to consider is the proximity to dispute resolution venues that the staff members of the Advisory Centre would provide their services, for example, attend hearings or other parts of proceedings. In the case of the Advisory Centre on WTO Law (“ACWL”), it is located in Geneva where most of the WTO dispute settlement body proceedings take place, which allows ACWL to operate with limited travels costs.

13. A significant number of investment disputes are administered by the International Centre for Settlement of Investment Disputes (“ICSID”) and the Permanent Court of Arbitration (“PCA”). Consequently, a number of proceedings, including hearings, take place in Washington, D.C, United States or the Hague, Netherlands, where the two organizations are headquartered. However, both provide the possibility for hearings to take place in different locations (where they have established offices or concluded arrangements) as well as remotely.

14. The choice of venue is typically determined by the parties taking into account factors such as convenience and accessibility, including travel, accommodation, and venue rental. Other popular venues for investment dispute resolution include London, Paris and Singapore.

#### ***Geographic distribution***

19. Locating the headquarters of the Advisory Centre in a developing country would ensure a better distribution of international organizations in different parts of the world. This may also align with the broader agenda of the Sustainable Development Goals by fostering inclusiveness, reducing global inequalities and promoting stronger international institutions.

#### *Attracting qualified workforce*

20. The location of the headquarters should be conducive to attracting qualified staff members with the necessary skills and expertise including language qualifications. As employers of the Advisory Centre, staff members as well as their family members should be able to travel in and out of the host State easily and should not face issues in obtaining work permits or visas. The quality of life would also be critical - factors such as safety, health care and education as well as recreational opportunities would incentivize qualified candidates to consider working at the Advisory Centre. Additionally, the cost of living at the location should be taken into account, as it can significantly impact the attractiveness of the location for potential employees.

#### *Number of ISDS claims*

21. The number of claims against respondent States in a specific region could also be a factor to consider as it would be reasonable to locate the Advisory Centre in a region with a high number of cases. However, according to ICSID, there was considerable regional diversity among new cases in 2023, which was in accord with historical trends. In 2023, States in Central America and the Caribbean accounted for 23% of new cases, followed by North America with 19%. South American States were involved in 16% of cases, Sub-Saharan Africa in 12%, and Eastern Europe and Central Asia, and Western Europe for 11% respectively. 7% of cases involved the Middle East and North Africa.<sup>3</sup> In 2022, States in Eastern Europe and Central Asia were involved in 27% of new cases, South America for 17%, the Middle East and North Africa 14%, and Western Europe for 12%. Central America and the Caribbean, and South and East Asia/Pacific each accounted for 10% of new cases, while North America and Sub-Saharan Africa each had a 5% share.<sup>4</sup>

22. According to UNCTAD, Argentina, Venezuela, Spain, Mexico, Egypt, Czechia, Poland, Peru, Canada and Ukraine had the most known cases as respondent States so far.<sup>5</sup> However, the number of claims against a State would not necessarily mean that the State would seek the advice of the Advisory Centre in all cases.

#### *Cooperation and coordination*

23. The location of the headquarters should facilitate close cooperation with international and regional organizations, as envisaged in article 3(3) of the Statute. In addition, as one of the functions of the Advisory Centre is to facilitate the appointment of external legal representatives under article 7(1)(e), it should be located where establishing such relationships with law firms and/or experts is not so cumbersome. Additionally, the presence of expertise in investment dispute resolution, including technical and financial expertise, as well as translation and interpretation services, would be advantageous. Partnerships with local organizations could also be a factor to consider, enhancing the Advisory Centre's operational capabilities and outreach.

### **III. Factors to consider in determining the location of the regional offices**

24. All of the factors mentioned above are pertinent in determining the location of any regional office of the Advisory Centre. As noted above, the decision to establish regional offices and their location lies with the Governing Committee and need not

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<sup>3</sup> Available at <https://icsid.worldbank.org/news-and-events/news-releases/icsid-releases-2023-caseload-statistics>.

<sup>4</sup> Available at <https://icsid.worldbank.org/news-and-events/communiques/icsid-releases-2022-caseload-statistics>.

<sup>5</sup> Available at <https://investmentpolicy.unctad.org/investment-dispute-settlement>.

be set forth in the Statute. Discussions may therefore focus on the guidance to be provided to the Governing Committee.

25. The objective of establishing regional offices should be to enhance its accessibility and to further facilitate effective collaboration and communication among diverse stakeholders. Regional offices could address regional specificities and foster inclusiveness in the Advisory Centre's operations, ultimately leading to a balanced and equitable distribution of services across the globe. Accordingly, it would be logical to locate the regional offices in a region other than the headquarters with an aim to widen the geographical scope as well as languages in which services can be provided. In doing so, there should be a thorough analysis of the resource implications and the cost-effectiveness of operating a regional office, especially the costs associated with setting up and maintaining such offices, including for premises, utilities, operation and travel.

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