

NEWS

FROM

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International Centre for Settlement of Investment Disputes

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New Chairman of the Administrative Council



On September 1, 1991, Mr. Lewis T. Preston succeeded Mr. Barber B. Conable as President of the World Bank. Mr. Preston also succeeded Mr. Conable as Chairman of the Administrative Council of ICSID, a position occupied *ex officio* by the President of the Bank.

Until February 1, Mr. Preston was Chairman of the Executive Committee of J. P. Morgan & Co. Incorporated and a member of the Corporate Office, the firm's senior policy and planning group. From January 1980 through 1989, he was Chairman of the Board and Chief Executive Officer of J. P. Morgan & Co.

Australia Ratifies the ICSID Convention

The previous (Winter 1991) issue of *News from ICSID* reported the enactment in December 1990 of the legislation enabling Australia to ratify the ICSID Convention. On May 2, 1991, Australia deposited with the World Bank its instrument of ratification of the Convention. In accordance with its Article 68(2), the Convention entered into force for Australia 30 days later, on June 1, 1991.

On depositing its instrument of ratification, Australia designated all of its states and territories, except Western Australia,

as "constituent subdivisions" eligible to submit investment disputes to ICSID under Article 25(1) of the Convention. At the same time, Australia designated the Supreme Courts of each of its states and territories as the competent courts in Australia from which to seek recognition and enforcement of ICSID arbitral awards under Article 54(2) of the Convention.

Eight More Countries Sign the ICSID Convention

Eight further countries have signed the ICSID Convention since the publication of the Winter 1991 issue of *News from ICSID*. The new signatories, in the order that the signings took place, are Zimbabwe (March 25, 1991), Bolivia (May 3, 1991), Czechoslovakia (May 13, 1991), Argentina (May 21, 1991), Grenada (May 24, 1991), Mongolia (June 14, 1991), Guinea-Bissau (September 4, 1991) and Peru (also on September 4, 1991).

Mr. Garikai Chigwedere, Zimbabwe's Ambassador to the United States, signed the Convention on behalf of his country. The Minister of External Relations and Culture of Bolivia, Mr. Carlos Iturralde, signed for Bolivia. Signing on behalf of Czechoslovakia was its Minister of Finance, Mr. Vaclav Klaus. Mr. Carlos Ortiz de Rozas, Argentina's Ambassador to the United States, signed for his country. Grenada's signature was effected by Mr. Denneth Modeste, Ambassador to the United

States. The Governor of the Central Bank of Mongolia, Mr. Naidansurengiin Zhargalsaikhan, signed the Convention on behalf of Mongolia; Mongolia's Prime Minister, Mr. Dashiin Byambasuren, and its Ambassador to the U.S., Mr. Gendengiin Nyamdoo, also attended the signing. The Convention was signed for Guinea-Bissau by its Ambassador to the United States, Mr. Alfredo Lopes Cabral. Mr. Roberto Mac Lean, Peru's Ambassador to the United States, signed on behalf of Peru.

With these signings, the number of signatory States of the ICSID Convention reached 108. On signature, two of the recent signatories, Grenada and Mongolia, also deposited their instruments of ratification of the Convention, bringing to 95 the number of signatory countries to have ratified the Convention. The recent signings are pictured below and on the following pages.



Minister Carlos Iturralde signing the Convention on behalf of Bolivia.



Ambassador Garikai Chigwedere of Zimbabwe signing the Convention, flanked by Mr. Ibrahim F.I. Shihata, Vice President and General Counsel, World Bank, and Secretary-General of ICSID (left), and Mr. Timothy T. Thahane, Vice President and Secretary, World Bank (right).



Minister Vaclav Klaus signing the Convention on behalf of Czechoslovakia.



Mr. Felix Alberto Camarasa, Executive Director, World Bank (right), and Mr. Shihata watching Ambassador Carlos Ortiz de Rozas sign the Convention on behalf of Argentina.



Grenada's Ambassador Denneth Modeste signing the Convention.



Ambassador Roberto Mac Lean signing the Convention on behalf of Peru.



Guinea-Bissau's Ambassador Alfredo Lopes Cabral signing the Convention.



On the occasion of Mongolia's signature of the Convention: seated, from left to right, are Mr. John Cosgrove, Executive Director, World Bank; Mr. Shihata; Mr. Naidansurengiin Zhargalsaikhan, Governor of Mongolia's Central Bank; Mr. Dashiin Byambasuren, Prime Minister of Mongolia; Mr. Thahane; and Mr. Gendengiin Nyamdoo, Ambassador of Mongolia to the U.S. Standing, from left to right, are Mr. Nadmidyn Bavuu, Trade Counselor, Ministry of Finance, Mongolia; Mr. Antonio R. Parra, Legal Adviser, ICSID; Mr. Salman M.A. Salman, Senior Counsel, World Bank; Mr. Sukh-Erdene, Chairman, State Bank International, Mongolia; and Mr. D. Buyantogtokh, Trade and Economic Attaché, Embassy of Mongolia.

Disputes Before the Centre

Amco v. Indonesia (Case ARB/81/1)

- June 5, 1991 Indonesia files its Memorial in support of Annulment.
- July 5, 1991 Indonesia and Amco file their Counter-Memorials.
- July 29, 1991 Indonesia files its Reply in Support of Annulment of the Second Award and Supplemental Award.

S.P.P. (Middle East) Ltd. v. Arab Republic of Egypt (Case ARB/84/3)

- April 22 and 23, 1991 The Parties file responses to the Tribunal's Procedural Order of February 13.
- June 26, 1991 The Respondent files its comments on the Claimant's response to the Procedural Order of February 13.
- July 9, 1991 The Claimant files a note on the Respondent's comments of June 26.

Société d'Etudes de Travaux et de Gestion SETIMEG S.A. v. Republic of Gabon (Case ARB/87/1)

- March 25 and 26, 1991 The Parties submit their lists of witnesses pursuant to the Tribunal's Procedural Order of February 4.
- June 5 and July 22, 1991 The Tribunal issues two Procedural Orders regarding arrangements for the hearing of witnesses.

Manufacturers Hanover Trust Company v. Arab Republic of Egypt and the General Authority for Investment and the Free Zones (Case ARB/89/1)

- June 6, 1991 The Tribunal's Decision on Jurisdiction is notified to the parties.

Recent Designations to the ICSID Panels of Conciliators and of Arbitrators

Pursuant to Article 3 of the ICSID Convention, the Centre maintains a Panel of Conciliators and a Panel of Arbitrators from which parties to ICSID conciliation and arbitration proceedings may (but need not) select persons to serve on the conciliation commission and arbitral tribunal established for the disputes concerned. Each ICSID member country may designate up to four persons to each Panel. Up to ten names may be placed on each Panel by the Chairman of the Administrative Council of the Centre. All designees to the Panels serve for renewable six-year terms. Five member countries, Belgium, Germany, Israel, Niger and the Netherlands, have recently made designations to the Panels as follows:

BELGIUM

Panel of Arbitrators—designations effective December 28, 1990 except as otherwise stated:

Mr. Robert Paul Henrion (re-appointment) and Prof. Guy Schrans (designation effective March 31, 1991)

Panel of Conciliators:

Prof. F. Rogiers

GERMANY

Panel of Conciliators—designation effective February 5, 1991:

Dr. Liesel Quambusch (to serve remainder of Dr. Helmut Giesecke's term)

ISRAEL

Panel of Arbitrators—designations effective April 3, 1991:

Messrs. Meir Gabay, Shabtai Rosenne and Meir Heth

Panel of Conciliators—designations effective April 3, 1991:

Mr. Victor Medina, Ms. Galia Maor and Mr. Eliezer Sheffer

NIGER

Panel of Arbitrators—designations effective April 2, 1991:

Messrs. Seyni Yayé, Adamou Namata, Mainassara Maïdagi and Seyni Abdou

Panel of Conciliators—designations effective April 2, 1991:

Messrs. Amani Issaka Bawa, Hamidou Abdourahamane and Dodo Dan Gado and Mrs. Brigitte Dia

THE NETHERLANDS

Panel of Arbitrators—designations effective April 24, 1991: Prof. Dr. Pieter Sanders, Prof. Dr. J.C. Schultsz and Mr. Anthony I.J.A. Looijen (reappointments); Mr. Jacob Varekamp

Panel of Conciliators—designations effective April 24, 1991:

Prof. Dr. J.R.M. van den Brink and Dr. J. Zijlstra (reappointments); Messrs. Jonkheer Emile Van Lennep and Johan H. van Oostveen.

Including the above designees, the Panel of Conciliators now contains 231 names and the Panel of Arbitrators 235. A complete list of members of the Panels (Document ICSID/10) is available from the Centre on request.

New ICSID Schedule of Fees

The Centre has recently issued a new edition of its Schedule setting forth the amounts of various fees referred to in the ICSID Administrative and Financial Regulations and the ICSID Additional Facility Rules. The new Schedule, which became effective July 1, 1991, replaces the January 1985 edition of the Schedule. Among the changes introduced with the new Schedule is an increase to US\$300 of the fee for lodging requests to institute proceedings under the ICSID Convention (the fee was previously \$100, the amount required since 1968 for lodging conciliation and arbitration requests). The full text of the new Schedule is reproduced below:

Fee for Lodging Requests

1. A non-refundable fee of US\$300 is payable to the Centre by the party or parties (if the request is made jointly) requesting the institution of conciliation or arbitration proceedings or making any of the other types of request referred to in Administrative and Financial Regulation 16.

Fees and Expenses of Conciliators, Arbitrators and *ad hoc* Committee Members

2. In addition to receiving reimbursement for any direct expenses reasonably incurred, conciliators, arbitrators and

ad hoc Committee members receive, unless otherwise agreed between them and the parties, a fee of SDR 600 per day of meetings or other work performed in connection with the proceedings, as well as subsistence allowances and reimbursement of travel expenses within limits set forth in Administrative and Financial Regulation 14.

Administrative Charges

3. The Secretariat's administrative charges are limited to reimbursement of its out-of-pocket expenses for proceedings. These include expenses for communications services and for the services of persons (such as interpreters, reporters and secretaries) especially engaged by the Centre for the proceeding concerned. If the proceeding is held away from the seat of the Centre, such expenses may also include charges of the host of the proceeding and travel and subsistence expenses of the Secretary of the Conciliation Commission, Arbitral Tribunal or *ad hoc* Committee concerned.
4. Administrative charges, and the fees and expenses of the Commission, Tribunal or Committee, are met from advance payments that the parties are periodically requested to make to the Centre under Administrative and Financial Regulation 14.

Charges for Special Services

5. A party requesting the Centre to perform a special service (such as the provision of translations or copies) must under Administrative and Financial Regulation 15 deposit in advance an amount sufficient to cover the resulting charges. For such services as the provision of translations or copies, the charges are determined on the basis of rates established by the World Bank under its normal administrative procedures.

ICSID Additional Facility Fees

6. The fee payable under Article 4 of the Additional Facility Administrative and Financial Rules in respect of requests for approval of agreements for access to the Facility and the fee payable under Article 5 of those Rules for lodging notices of commencement of proceedings are now US\$150 each. The rate of fees for conciliators, arbitrators and members of Fact-finding Committees under Article 6 of the Additional Facility Administrative and Financial Rules is presently SDR 600 per day.

Eighth Joint ICSID/AAA/ICC International Court of Arbitration Colloquium on International Arbitration Washington, D.C. November 11, 1991

ICSID, the American Arbitration Association (AAA) and the International Chamber of Commerce (ICC) International Court of Arbitration will this year be co-sponsoring the eighth in their series of colloquia on international arbitration. Hosted by ICSID, the colloquium will take place on November 11, 1991 at the headquarters of the World Bank in Washington, D.C. After welcoming and introductory remarks by Ibrahim F.I. Shihata, Secretary-General, ICSID, Alain Plantey, Chairman, ICC International Court of Arbitration, and Robert Coulson, President, AAA, the colloquium will examine the following two topics:

1. *How to Draft an Arbitration Clause*

Speakers: Michael F. Hoellering, General Counsel, AAA; Stephen R. Bond, White & Case, Paris, and former Secretary-General, ICC International Court of Arbitration; and Georges R. Delaume, Counsel to Curtis, Mallet-Prevost, Colt & Mosle, Washington, D.C., and former Senior Legal Adviser, ICSID

Commentators: John R. Stevenson, Counsel to Sullivan & Cromwell, Washington, D.C.; William E. Jackson, Partner, Milbank, Tweed, Hadley & McCloy, New York, and Vice President, ICC International Court of Arbitration; and Emmanuel Gaillard, Professor of Law, University of Paris XII, and Partner, Shearman & Sterling, Paris

2. *International Arbitration and Developing Countries*

Speakers: Davis R. Robinson, Partner, LeBoeuf, Lamb, Leiby & MacRae, Washington, D.C.; Fali S. Nariman, Senior Advocate, Supreme Court of India, and Vice President, ICC International Court of Arbitration; Ahmed Sadek El-Kosheri, Professor of Law, Ain Shams University, and Senior Partner, Kosheri & Rashed, Cairo

Commentators: Don Wallace, Jr., Professor of Law, Georgetown University, and International Counsel, Shearman & Sterling, Washington, D.C.; Horacio A. Grigera Naon, Counsel, International Finance Corporation, and Member, ICC International Court of Arbitration; Karl-Heinz Böckstiegel, Professor of Law, University of Cologne, and former President of the Iran-U.S. Claims Tribunal

After each set of formal presentations and comments, the floor will be open to questions from participants in the colloquium. Heribert Golsong, Adviser to Fulbright & Jaworski and former Secretary-General of ICSID, and John A. Westberg, Partner, Westberg & Johnson, Washington, D.C., will sum up the discussions on the first and second topics respectively. Aron Broches, Counsel to Holtzmann, Wise & Shepard and former Secretary-General of ICSID, will speak at the luncheon for colloquium participants.

For further information on the colloquium, contact:

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ICSID Review— Foreign Investment Law Journal

The Centre has recently published the eleventh (Spring 1991) issue of its *ICSID Review — Foreign Investment Law Journal*. The issue includes the following articles: "The Relaxation of Foreign Investment Restrictions in Canada," by Ross B. Leckow, Counsel, International Monetary Fund, and Ian A. Mallory, Counsel, World Bank; "Promotion and Protection of Foreign Investments in Tanzania: A New Investment Code," by Chris Maina Peter, Senior Lecturer in Law, University of Dar es Salaam; "The Legal Framework for Investment in Czechoslovakia," by Maher S. Mahmassani, Chief Counsel, International Finance Corporation; and "Investment Policies and Investment Promotion in the Mineral Industries" by Thomas W. Wälde, Professor of Petroleum, Mineral and International Investment Law and Executive Director, Centre for Petroleum and Mineral Law & Policy, Dundee University.

Other highlights of the issue include a comment by Istvan Pogany, Senior Lecturer in Law, City University, London, on recent developments in Hungary's foreign investment law, and the full text of the arbitral award in the ICSID case of *Société Ouest Africaine des Bétons Industriels v. State of Senegal*. That award is published in the issue with an introductory note by Nassib G. Ziadé, ICSID. Rudolf V. Van Puymbroeck, Senior Counsel, World Bank, and Giorgio Recchia, Professor of Comparative Public Law at University of Naples, provide the issue's reviews of *Legal Issues in International Trade* (Sarcevic & van Houtte eds.) and *Codice dell' Arbitrato* (Bernardini & Giardina eds.) respectively.

The *ICSID Review — Foreign Investment Law Journal*, which appears twice yearly, is available on a subscription basis from the Johns Hopkins University Press, Journals Publishing Division, 701 W. 40th Street, Suite 275, Baltimore, Maryland 21211-2190, U.S.A. Annual subscription rates (excluding postal charges) are \$50 for persons with a mailing address in a member country of the Organisation for Economic Co-operation and Development and \$25 for others.

ICSID and the Courts

By a decision rendered June 11, 1991, the Cour de Cassation of France quashed the Paris Cour d'Appel decision of December 5, 1989 regarding the recognition and enforcement of the award made in the ICSID case of *Société Ouest Africaine des Bétons Industriels v. State of Senegal* (see 7 *News from ICSID*, No. 1, at 11 (1990) and 6 *ICSID Review—Foreign Investment Law Journal* 119 (1991)).

The text of the decision of the Cour de Cassation will be published in the Fall 1991 issue of the *ICSID Review—Foreign Investment Law Journal*.

Recent Publications on ICSID

Bondzi-Simpson, P. Ebow

Legal Relationships Between Transnational Corporations and Host States 183-196 (1990).

Moti, Julian R.

Australia to Ratify the ICSID Convention, 17 *Australian Construction Law Newsletter* 26 (April 1991).

Settlement of International Investment Disputes, 6 *Pacific Basin Legal Developments Bulletin*, No. 2 at 6 (April/May 1991).

Paasivirta, Esa

Participation of States in International Contracts (1990).

Rubino-Sammartano, Mauro

International Arbitration Law 51-63 (1990).

Zhou Chengxin

Settlement of International Investment Disputes 167-252 (1989) (in Chinese).

Ziadé, Nassib G.

Introductory Note [to the February 25, 1988 award in *SOABI v. State of Senegal*], 6 *ICSID Review — Foreign Investment Law Journal* 119 (1991).

NEWS FROM ICSID

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