

# NEWS FROM ICSID

International Centre for Settlement of Investment Disputes

Vol. 17, No. 2

Fall 2000

## New Secretary-General of ICSID

On July 25, 2000, the Administrative Council of ICSID elected Ko-Yung Tung to a five-year term as the Centre's Secretary-General.



*Ko-Yung Tung*

Mr. Tung was appointed Vice President and General Counsel of the World Bank in December 1999. He was previously a senior partner in

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## Kazakhstan, Ukraine and Uruguay Ratify the ICSID Convention

The ICSID Convention was ratified by Ukraine on June 7, 2000 and by Uruguay on August 9, 2000. Kazakhstan became the newest ICSID member by ratifying the Convention on September 21, 2000. The ratifications of Ukraine and Kazakhstan brought to eight the number of the Commonwealth of Independent States countries that have joined ICSID. The other six are Armenia, Azerbaijan, Belarus, Georgia, Turkmenistan and Uzbekistan. Uruguay's ratification brought to ten the number of ICSID member countries in South America. The other South American members are Argentina, Bolivia, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru and Venezuela.

In total, there are now 148 signatories of the ICSID Convention, of which 133 have also ratified the Convention to become Contracting States. An up-to-date list of the ICSID Contracting States and Other Signatories of the Convention is available on the ICSID website ([www.worldbank.org/icsid](http://www.worldbank.org/icsid)) and from the Centre on request.

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## Disputes Before the Centre

Nine ICSID proceedings have recently been instituted. Six of them are ICSID Convention arbitration proceedings and the other three are ICSID Additional Facility arbitration proceedings. With these new proceedings, ICSID has now registered a total of 81 cases, 3 of which have been ICSID Convention conciliation cases, 68 ICSID Convention arbitration cases, and 10 ICSID Additional Facility arbitration cases.

Thirty-eight of the cases are currently pending before the Centre or have been concluded since the publication of the last issue of *News from ICSID*. These include 33 arbitration proceedings under the ICSID Convention and 5 arbitration proceedings under the Additional Facility Rules. All of the cases conducted under the Additional Facility Rules, as well as the majority of the pending ICSID Convention cases, have been initiated on the basis of the investor-to-State dispute-settlement provisions of investment treaties. Further details are provided below.

- **American Manufacturing & Trading, Inc. v. Democratic Republic of the Congo (Case No. ARB/93/1)—Revision Proceeding**

*July 26, 2000*

The Tribunal issues an Order taking note of the discontinuance of the proceeding pursuant to Arbitration Rule 44.

- **Misima Mines Pty. Ltd. v. Independent State of Papua New Guinea (Case No. ARB/96/2)**

*August 24, 2000*

The Claimant requests the postponement of the hearing on damages.

*October 20, 2000*

The Claimant informs the Tribunal of the Parties' agreement to settle the dispute.

- **Metalclad Corporation v. United Mexican States (Case No. ARB(AF)/97/1)**

*August 30, 2000*

The Tribunal renders its award.

- **Compañía de Aguas del Aconquija S.A. and Compagnie Générale des Eaux v. Argentine Republic (Case No. ARB/97/3)**

*November 21, 2000*

The Tribunal renders its award.

- **Ceskoslovenska obchodni banka, a.s. v. Slovak Republic (Case No. ARB/97/4)**

*July 17, 2000*

The Tribunal meets with the Parties in London.

*November 30, 2000*

The Tribunal issues its decision on the additional objection to jurisdiction.

- **Lanco International, Inc. v. Argentine Republic (Case No. ARB/97/6)**

*June 15, 2000*

The Respondent files documents requested by the Tribunal.

*June 16, 2000*

The Parties file their post-hearing submissions.

*June 19, 2000*

The Claimant requests the discontinuance of the proceedings under Arbitration Rule 44.

*June 21, 2000*

The Tribunal issues an order fixing a time period for the Respondent to state whether it opposes the discontinuance of the proceeding.

*July 24, 2000*

The Respondent files observations to the Claimant's request for discontinuance, stating that it has no objection to such request.

*August 4, 2000*

The Claimant files, at the invitation of the Tribunal, its response to the Respondent's observations on the request for discontinuance.

September 7, 2000

The Respondent files further observations on the discontinuance of the proceeding.

October 17, 2000

The Tribunal issues an Order taking note of the discontinuance of the proceedings pursuant to Arbitration Rule 44.

- **Emilio Agustín Maffezini v. Kingdom of Spain (Case No. ARB/97/7)**

July 11–12, 2000

The Tribunal holds a hearing on the merits in London.

November 13, 2000

The Tribunal renders its award.

- **Joseph C. Lemire v. Ukraine (Case No. ARB(AF)/98/1)**

September 18, 2000

The Tribunal renders its award embodying the Parties' settlement agreement.

- **Houston Industries Energy, Inc. and Others v. Argentine Republic (Case No. ARB/98/1)**

June 16, 2000

The Tribunal, having taken note of the Respondent's opposition to the discontinuance of the proceedings, informs the Parties that the proceeding shall continue.

- **Victor Pey Casado and President Allende Foundation v. Republic of Chile (Case No. ARB/98/2)**

There have been no new developments to report in this case since the publication of the last issue of *News from ICSID*.

- **International Trust Company of Liberia v. Republic of Liberia (Case No. ARB/98/3)**

There have been no new developments to report in this case since the publication of the last issue of *News from ICSID*.

- **Wena Hotels Limited v. Arab Republic of Egypt (Case No. ARB/98/4)**

June 15, 2000

The Parties file their post-hearing replies.

November 1, 2000

The Tribunal declares the proceeding closed.

- **Eudoro A. Olguín v. Republic of Paraguay (Case No. ARB/98/5)**

August 8, 2000

The Tribunal issues its decision on jurisdiction.

October 5, 2000

The Respondent files its counter-memorial on the merits.

November 9, 2000

The Claimant files its reply on the merits.

- **Compagnie Minière Internationale Or S.A. v. Republic of Peru (Case No. ARB/98/6)**

June 7, 2000

The Tribunal is constituted. Its members are: Ian Brownlie (British), President; Henri C. Alvarez (Canadian); and Keith Highet (U.S.).

July 11, 2000

The proceeding is suspended due to the resignation of Mr. Keith Highet from the Tribunal.

- **Banro American Resources, Inc. and Société Aurifère du Kivu et du Maniema S.A.R.L. v. Democratic Republic of the Congo (Case No. ARB/98/7)**

September 1, 2000

The Tribunal renders its award.

- **The Loewen Group, Inc. and Raymond L. Loewen v. United States of America (Case No. ARB(AF)/98/3)**

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## Disputes Before the Centre

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*July 27, 2000*

The Claimants file their rejoinder on the objections to jurisdiction.

*September 20–22, 2000*

The Tribunal meets with the Parties in Washington, D.C.

- **Tanzania Electric Supply Company Limited v. Independent Power Tanzania Limited (Case No. ARB/98/8)**

*June 20–26, 2000*

The Tribunal meets with the Parties in London.

*September 12, 2000*

The Parties file their post-hearing briefs.

- **Alex Genin and others v. Republic of Estonia (Case No. ARB/99/2)**

*June 19, 2000*

The Respondent files its counter-memorial.

*July 18, 2000*

The Claimants file their reply.

*August 18, 2000*

The Respondent files its rejoinder.

*October 2–6, 2000*

The Tribunal holds a hearing in Washington, D.C.

- **Philippe Gruslin v. Malaysia (Case No. ARB/99/3)**

*August 22–23, 2000*

The Tribunal holds a hearing on the objections to jurisdiction in Paris.

*November 28, 2000*

The Tribunal renders its award declining jurisdiction.

- **Marvin Roy Feldman Karpa v. United Mexican States (Case No. ARB(AF)/99/1)**

*July 17 and August 3, 2000*

The Tribunal issues procedural orders concerning preliminary issues.

*August 21, 2000*

The Claimant files its memorial on preliminary jurisdictional issues.

*September 8, 2000*

The Respondent files its counter-memorial on preliminary jurisdictional issues.

*September 22, 2000*

The Parties file their additional observations on preliminary jurisdictional issues.

*October 6, 2000*

Canada and the United States of America file submissions under NAFTA Article 1128.

*October 30, 2000*

The Respondent files additional observations.

- **Empresa Nacional de Electricidad S.A. v. Argentine Republic (Case No. ARB/99/4)**

*August 11, 2000*

The proceeding is resumed.

*October 13, 2000*

The Respondent files its memorial on jurisdiction.

- **Alimenta S.A. v. Republic of The Gambia (Case No. ARB/99/5)**

*June 21, 2000*

The Tribunal extends the time period within which the Respondent may file its counter-memorial on the merits.

*September 13, 2000*

The Tribunal grants a further extension of the time period within which the Respon-

dent may file its counter-memorial on the merits.

*October 12, 2000*

The Respondent files its counter-memorial on the merits.

*October 30–31, 2000*

The Tribunal holds a hearing on the merits in London.

- **Mondev International Ltd. v. United States of America (Case No. ARB(AF)/99/2)**

*September 25, 2000*

The Tribunal issues its decision regarding place of arbitration, bifurcation of proceedings, production of documents, schedule of pleadings and procedure for the submission of evidence.

*October 24, 2000*

The Tribunal issues an order establishing the schedule for future pleadings.

*November 13, 2000*

The Tribunal issues an order regarding the publication of documents.

- **Middle East Cement Shipping and Handling Co. S.A. v. Arab Republic of Egypt (Case No. ARB/99/6)**

*July 12, 2000*

The Tribunal holds a hearing on the objections to jurisdiction in Paris.

*November 27, 2000*

The Tribunal issues its decision on jurisdiction.

- **Patrick Mitchell v. Democratic Republic of the Congo (Case No. ARB/99/7)**

*November 21, 2000*

The Tribunal is constituted. Its members are: Andreas Bucher (Swiss), President; Yawovi Agboyibo (Togolese); and Willard Z. Estey (Canadian).

- **Astaldi S.p.A. & Columbus Latinoamericana de Construcciones S.A. v. República de Honduras (Case No. ARB/99/8)**

*September 5, 2000*

The Tribunal declares the proceeding closed.

*October 19, 2000*

The Tribunal renders its award.

- **Zhinvali Development Ltd. v. Republic of Georgia (Case No. ARB/00/1)**

*July 27, 2000*

The Claimant informs the Centre that it consents to a suspension of the proceeding until September 25, 2000.

*November 6, 2000*

The Claimant informs the Centre that the Parties have not agreed to any further suspension of the proceeding.

- **Mihaly International Corporation v. Democratic Socialist Republic of Sri Lanka (Case No. ARB/00/2)**

*July 19, 2000*

The Tribunal holds a session with the Parties in London.

*August 1, 2000*

The Respondent files a list of its objections to jurisdiction.

*November 16, 2000*

The Claimant files its memorial on jurisdiction.

- **GRAD Associates, P.A. v. Bolivarian Republic of Venezuela (Case No. ARB/00/3)**

*August 18, 2000*

The Tribunal is constituted. Its members are: Francisco Orrego Vicuña (Chilean), President; Andrew J. Jacovides (Cypriot); and Francisco Rezek (Brazilian).

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## Disputes Before the Centre

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- **Salini Costruttori S.p.A. and Italstrade S.p.A. v. Kingdom of Morocco (Case No. ARB/00/4)**

*June 13, 2000*

The Secretary-General registers a request for the institution of arbitration proceedings.

*September 25, 2000*

The Tribunal is constituted. Its members are: Robert Briner (Swiss), President; Bernardo M. Cremades (Spanish); and Ibrahim Fadlallah (Lebanese).

*October 27, 2000*

The Tribunal holds its first session with the Parties in Paris.

- **Autopista Concesionada de Venezuela, C.A. v. Bolivarian Republic of Venezuela (Case No. ARB/00/5)**

*June 23, 2000*

The Secretary-General registers a request for the institution of arbitration proceedings.

- **Consortium R.F.C.C. v. Kingdom of Morocco (Case No. ARB/00/6)**

*June 28, 2000*

The Secretary-General registers a request for the institution of arbitration proceedings.

*September 25, 2000*

The Tribunal is constituted. Its members are: Robert Briner (Swiss), President; Bernardo M. Cremades (Spanish); and Ibrahim Fadlallah (Lebanese).

*October 27, 2000*

The Tribunal holds its first session with the Parties in Paris.

- **World Duty Free Company Limited v. Republic of Kenya (Case No. ARB/00/7)**

*July 7, 2000*

The Secretary-General registers a request for the institution of arbitration proceedings.

*November 29, 2000*

The Tribunal is constituted. Its members are: Gilbert Guillaume (French), President; James Crawford (Australian); and Andrew Rogers (Australian).

- **Ridgepointe Overseas Development, Ltd. v. Democratic Republic of the Congo (Case No. ARB/00/8)**

*July 27, 2000*

The Secretary-General registers a request for the institution of arbitration proceedings.

- **ADF Group Inc. v. United States of America (Case No. ARB(AF)/00/1)**

*August 25, 2000*

The Secretary-General registers a request for the institution of arbitration proceedings under the Additional Facility Rules.

- **Técnicas Medioambientales Tecmed, S.A. v. United Mexican States (Case No. ARB(AF)/00/2)**

*August 28, 2000*

The Secretary-General registers a request for the institution of arbitration proceedings under the Additional Facility Rules.

- **Waste Management, Inc. v. United Mexican States (Case No. ARB(AF)/00/3)**

*September 27, 2000*

The Secretary-General registers a request for the institution of arbitration proceedings under the Additional Facility Rules.

- **Generation Ukraine Inc. v. Ukraine (Case No. ARB/00/9)**

*October 20, 2000*

The Secretary-General registers a request for the institution of arbitration proceedings.



## New Secretary-General

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the international law firm of O'Melveny & Myers, where he was Chairman of the Global Practice Group and a member of the firm's management committee. His practice concentrated on cross-border corporate transactions.

Born in Beijing, China, in 1947, Mr. Tung grew up in Japan. He studied physics at Harvard College, graduating magna cum laude, and received his J.D. from Harvard Law School in 1973. He spent a year during his legal studies studying Japanese law at the University of Tokyo, Japan. While in private practice, he taught courses in international business transactions and Japanese law as an adjunct professor of law at New York University.

His principal outside activities have included serving as Chairman of the East-West Center in Hawaii, on the Advisory Committee of Human Rights Watch/Asia and on the Board of the Asian-American Legal Defense and Education Fund. He was a member of the U.S. Presidential Commission on International Trade and Investment and The Trilateral Commission. He is a member of the Council on Foreign Relations.

Mr. Tung succeeded Ibrahim F.I. Shihata as Secretary-General of ICSID. Mr. Shihata, who was also Senior Vice President and General Counsel of the World Bank, retired after nearly 17 years as ICSID's Secretary-General. In electing Mr. Tung, the Administrative Council expressed its deep appreciation for Mr. Shihata's outstanding service to ICSID.

## New Designations to the ICSID Panels of Conciliators and of Arbitrators

In accordance with Articles 3 and 12 to 16 of the ICSID Convention, the Centre maintains a Panel of Conciliators and a Panel of Arbitrators. Each party to the Convention may designate to each Panel up to four persons who may but need not be its nationals. The following designations to the Panels have recently been made by Japan, the Philippines and Switzerland.

### Japan

#### *Panel of Conciliators*

Designations effective November 10, 2000: Makoto Kuroda, Kenji Miyahara, Kousuke Nakahira, and Toshijiro Nakajima.

#### *Panel of Arbitrators*

Designations effective November 10, 2000: Eiichi Hoshino, Mitsuo Matsushita, Makoto Utsumi, and Katsuhiko Utada (re-appointment).

### The Philippines

#### *Panels of Conciliators and of Arbitrators*

Designations effective August 17, 2000: Lilia R. Bautista (re-appointment); Florentino P. Feliciano, Efren I. Plana (re-appointment), and Armando L. Suratos (re-appointment).

### Switzerland

#### *Panel of Conciliators*

Designations effective September 7, 2000: Marino Baldi (re-appointment), Jens Drolshammer (re-appointment), Jacques-Michel Grossen (re-appointment), and Matthias Kummer (re-appointment).

#### *Panel of Arbitrators*

Designations effective September 7, 2000: Andreas Bucher, Pierre A. Lalive (re-appointment), Dietrich Schindler (re-appointment), and Walter A. Stoffel (re-appointment).



## Applicable Substantive Law in ICSID Arbitrations Initiated Under Investment Treaties

By Antonio R. Parra, Deputy Secretary-General, ICSID

*A paper delivered in the session on "New Trends in Governing Law" at the Seventeenth Joint ICSID/American Arbitration Association/ICC Court Colloquium on International Arbitration, held in Washington D.C. on November 10, 2000.*

Over the past decade, there has been an extraordinary proliferation of bilateral investment treaties, or BITs. In ten years, the number of BITs has grown by about 1,500 to its present level of around 1,800. Some 170 countries have now signed one or more of these treaties. There have in the same period been concluded several regional multilateral treaties dealing with investment. These most famously include the NAFTA.

All but a few of these bilateral and multilateral treaties provide for the arbitral settlement of disputes that might arise between a State party to the treaty and an investor from the other, or another, State party. In the overwhelming majority of the treaties, the provisions set forth the consent of each State to the submission of such disputes to one or more forms of arbitration specified in the treaty. In the event of a dispute with the State, the investor concerned may resort to the appropriate form of arbitration on the strength of the State's consent in the treaty. In most of the treaties, including the NAFTA, there are consents to one or both of the forms of arbitration administered by ICSID: arbitration under the 1965 ICSID Convention and arbitration under the 1978 ICSID Additional Facility Rules.

The creation of this vast network of treaties with such consents has had a dramatic impact on the caseload of ICSID, particularly in the last few years. Since 1998, ICSID has been registering cases at the rate of one new case a month. Three-quarters of the new cases have been brought to the Centre by investors relying for the consent of the host State on the dispute-

settlement provisions of one of its investment treaties. Altogether, 36 cases have on this basis been submitted to arbitration under the ICSID Convention or the ICSID Additional Facility Rules. In 28 of these cases, the underlying treaty was a BIT; in the remaining 8, it was the NAFTA. The cases that have come to ICSID under these treaties have had a number of important dimensions. Not least among these concerns the rules of law applicable to the substance of the disputes.

These mainly have been the rules set out in the substantive provisions of the treaties themselves. In most instances, this follows simply from the investor's invocation of those rules in bringing the claim, such reliance on the rules being explicitly or implicitly authorized by the investor-to-State dispute-settlement provisions of the treaty. The treaty being an instrument of international law, it is I think also implicit in such cases that the arbitrators should have recourse to the rules of general international law to supplement those of the treaty. The NAFTA and some BITs leave none of this to inference. They specifically require the investor-to-State disputes to be settled by the arbitrators in accordance with the treaty and the applicable rules of international law — the BITs often also referring in this context to the law of the State party to the dispute.

The substantive provisions of the treaties are, for the most part, similar in form and content. Under a few of the treaties, each State grants certain rights of entry to investments from the other State or States involved. Most of the treaties, however, are principally concerned only with the treatment of investments following



their admission. The treaties lay down a number of general standards in this respect. With few exceptions, they declare that the host State shall accord to covered investments "fair and equitable treatment." Virtually all of the treaties add that the treatment shall be "no less favorable" than that granted to investments of local nationals or of foreign investors not covered by the treaty. The treaties often also stipulate that covered investments shall enjoy "full protection and security" in the host State.

More particular matters dealt with by the substantive provisions of the treaties include expropriation. The provisions on this topic normally address both outright and indirect or "creeping" expropriation. A typical treaty provision on the subject provides that covered investments "shall not be expropriated or nationalized either directly or indirectly through measures tantamount to expropriation or nationalization ... except for a public purpose; in a nondiscriminatory manner; upon payment of prompt, adequate and effective compensation; and in accordance with due process of law." Currency transfers are another matter usually dealt with by the treaties. In this respect, most of the treaties provide that each State shall guarantee investors of the other State or States the "free transfer" of their investments and returns. Many of the treaties also have provisions on the observance by the State of undertakings related to covered investments. In these provisions, each State confirms that it will "observe any obligation" that it may have entered into with respect to such investments.

The first BITs were made in the period 1959-1969. Much of the inspiration for these and the later treaties came from the 1959 Abs-Shawcross Draft Convention on Investments Abroad and the 1967 OECD Draft Convention on the Protection of Foreign Property. Most of the substantive provisions of the latter draft were described in their accompanying explanatory notes as reflecting rules of customary international law. However, there were then, and long remained, profound differences of opinion between industrial countries on the one hand, and many developing and socialist countries on the other

hand, as to the rules of international law on foreign investment.

With the proliferation in the 1990s of the largely uniform treaties on the subject, an impressive consensus seems to have emerged on what constitutes an appropriate set of rules, irrespective of whether they are understood as being merely treaty rules or as also restating customary law. The rules themselves are obviously extremely broad. A major part of the task of elaborating on them is now underway in the cases submitted to ICSID under the investor-to-State dispute-settlement provisions of BITs and the NAFTA.

These cases have so far yielded five published awards on the merits. The first was rendered in June 1990 in *Asian Agricultural Products Limited v. Sri Lanka*. This was the first case brought to ICSID under a BIT. The award dealt with the standard of "full protection and security" set forth in the BIT. This was equated by the award with the standard of "due diligence" of customary international law. The award rejected the argument of the claimant that the "full protection and security" provision of the treaty instead imposed on the host State strict or absolute liability for harm suffered by covered investments. The second award was made in February 1997 in *American Manufacturing & Trading, Inc. v. Democratic Republic of the Congo*, an arbitration also initiated under a BIT. The BIT in that particular case provided for "protection and security ... not less than that recognized by international law." In its award, the tribunal reaffirmed that the relevant standard of international law was one of "vigilance and care" on the part of the host State. The third award was rendered in March 1998 in *Fedax N.V. v. Venezuela*. That case, like the two others, was initiated under a BIT. In an apparent reference to the "observance of undertakings" provision that the BIT contained, the award remarked that the State had under the BIT "to honor the specific payments established in the promissory notes" concerned.

The fourth award was the November 1999 award in *Robert Azinian and Others v. Mexico*

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## Applicable Substantive Law

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and the fifth was the August 2000 award in *Metalclad Corporation v. Mexico*. These were the first two, and as far as I know still the only, final awards on the merits made in NAFTA investor-to-State arbitrations. The award in the *Azinian* case rejected the idea that the NAFTA provisions might allow an investor to challenge as expropriatory the invalidation of a contract by an administrative act upheld by competent local courts in circumstances not involving a denial of justice or bad faith. The award in the *Metalclad* case was the first to have applied the standard of "fair and equitable treatment." It linked that standard to the so-called "transparency" requirements of the NAFTA. The standard was also linked by the award to principles of due process. In addition, the award applied the expropriation provision of the NAFTA, explaining that it covered not only acknowledged takings, "but also covert or incidental interference with the use of property which has the effect of depriving the owner, in whole or in significant part, of the use or reasonably-to-be-expected economic benefit of property." With respect to compensation, the *Metalclad* tribunal held that an award based on future profits could not be made where the investment enterprise had never operated, as that would, in the words of the tribunal, be "wholly speculative." In reaching that conclusion, the tribunal cited the similar conclusion of the award made in the first BIT arbitration, *Asian Agricultural Products Limited v. Sri Lanka*. The *Metalclad* litigation may, however, continue, the respondent having announced that it will be applying to the courts of the place of arbitration to have the award set aside.

I referred earlier to an apparent consensus on basic international rules regarding the treatment of foreign investment. It seems, however, that this consensus was no sooner achieved than questions came to be raised about the wisdom of some of the rules, especially those on expropriation, and of entrusting their application to investor-to-State arbitration. Such concerns

were expressed with particular force by several prominent NGOs in connection with the negotiations in the OECD in 1995-1998 on a Multilateral Agreement on Investment.

Cases under the treaties have since been wending their way through the investor-to-State arbitral process. The cases have as I mentioned so far yielded five published awards on the merits elaborating on several of the rules concerned. Twenty-five of the further cases brought to ICSID under BITs and the NAFTA are still pending. The NAFTA and many BITs also provide for the settlement of investor-to-State disputes by arbitration under the UNCITRAL Arbitration Rules; and several of the resulting UNCITRAL Rules proceedings are likewise pending. The proceedings in about a dozen of the pending ICSID cases are now well advanced. There should, in other words, soon be an even ampler jurisprudence on the rules set out in BITs and the NAFTA on the treatment of covered investment.

This and other papers presented at the Seventeenth Joint ICSID/AAA/ICC Colloquium on International Arbitration will be reprinted in the Spring 2001 issue of the *ICSID Review—Foreign Investment Law Journal*.



## New ICSID Publications

The Centre has recently published the Spring 2000 issue of *ICSID Review—Foreign Investment Law Journal*. The issue features articles by W. Paatii Ofosu-Amaah on reforming business-related laws to promote private sector development in Africa; by William T. Onorato and Mark J. Valencia on the new Timor Gap Treaty; and by Raj Soopramanien on the current multilateral framework for international trade and the possible role of the World Bank in the next round of multilateral trade negotiations. Other contributions include the eighth, and the last, installment of a "Commentary on the ICSID Convention" by Christoph Schreuer. Jan Paulsson provides the issue's review of the recent book on *Combating Corruption: A Comparative Review of Selected Legal Aspects of State Practice and Major International Initiatives* by W. Paatii Ofosu-Amaah, Raj Soopramanien and Kishor Uprety. In addition, the issue contains the full texts of the arbitral awards rendered in two ICSID cases, *Compañía del Desarrollo de Santa Elena S.A. v. Republic of Costa Rica* (Case No. ARB/96/1) and *Waste Management, Inc. v. United Mexican States* (Case No. ARB(AF)/98/2).

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, 2715 North Charles Street, Baltimore, Maryland 21218-4363, U.S.A. Annual subscription rates (excluding postal charges) are US\$68 for subscribers with mailing address in a member country of the Organisation for Economic Cooperation and Development and US\$35 for others.

Other recent publications of the Centre include a new release (2000-1) of ICSID's collection of *Investment Treaties*, issued in July 2000. The release contains the texts of 20 bilateral investment treaties concluded by some 26 countries in the period 1988-1999. A new release

(2000-2) of the *Investment Laws of the World* collection was published in December 2000. The release contains basic foreign investment legislation of Burkina Faso, Mali, Mexico, the Russian Federation, Saudi Arabia and Thailand.

*Investment Laws of the World* (10 volumes) and *Investment Treaties* (7 volumes) may be purchased from Oceana Publications, Inc., 75 Main Street, Dobbs Ferry, New York 10522, U.S.A., at US\$950 for the *Investment Laws of the World* collection and US\$550 for the *Investment Treaties* collection.

The Centre has recently expanded further the range of information that it makes available on its website at <http://www.worldbank.org/icsid>. The website now provides access to the full text of *ICSID Basic Documents* in English and Spanish. This includes the Convention on the Settlement of Investment Disputes between States and Nationals of Other States and the Rules and Regulations adopted pursuant to the Convention. The French language version of the text of *ICSID Basic Documents* will shortly be available in digital format on the website. Already available online are the ICSID Additional Facility Rules in all three of the official languages of the Centre. Most recently, the texts of the 2000 ICSID Annual Report in English, French and Spanish were added to the website.

Arbitral awards and decisions that the parties authorize ICSID to publish are also being posted on the website. At present, decisions and awards rendered in five ICSID cases have been made available online. Three of these cases have involved proceedings conducted under the ICSID Convention, and the other two under the ICSID Additional Facility Rules. Besides the materials on ICSID cases, the website features the full texts of the pleadings, the transcripts of the daily sessions and the Tribunal's award rendered in the *Southern Bluefin Tuna Case—Australia and New Zealand v. Japan*. The hearing on jurisdiction in this State-to-State proceeding was administered by ICSID earlier this year at the request of the parties and the arbitral tribunal.



## Recent Publications on ICSID

- Obadia, Eloïse M., How Proactive Arbitrators Really Are in Conducting Arbitral Proceedings: An ICSID Perspective, 16 *News from ICSID*, No. 2, at 8 (1999).
- Parra, Antonio, R., ICSID and Bilateral Investment Treaties, 17 *News from ICSID* No. 1, at 11 (2000).
- Sajko, Krešimir, Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States, 16 *Croat. Arbit. Yearb.* 131–40 (1999).
- Schreuer, Christoph, Commentary on the ICSID Convention, Articles 36–40 and 56–58, 14 *ICSID Rev.—FILJ* 421–530 (1999).
- \_\_\_\_\_, Commentary on the ICSID Convention, Articles 59–64, 15 *ICSID Rev.—FILJ* 103–166 (2000).
- Shihata, Ibrahim F.I. and Parra, Antonio R., The Experience of the International Centre for Settlement of Investment Disputes, 14 *ICSID Rev.—FILJ* 299 (1999).
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