

NEWS FROM ICSID

International Centre for Settlement of Investment Disputes

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The ICSID Convention was signed on behalf of Spain by Apolonio Ruiz Ligeró, Spain's Secretary of State for Commerce. Seated at the signing are, from left to right: Angel Torres, Executive Director representing Spain, World Bank; Ibrahim F.I. Shihata, Vice President and General Counsel, World Bank, and Secretary-General, ICSID; Secretary Ruiz Ligeró; Luis Dodero, Vice President and General Counsel, Multilateral Investment Guarantee Agency; Andres Rigo, Assistant General Counsel, World Bank. Standing: Estela T. Sanidad, Coordinator, Membership and Capital Subscriptions, Secretary's Department, World Bank Group.

Cambodia, Nicaragua, Slovakia, Slovenia, Spain and Uzbekistan Sign the ICSID Convention

Since the publication of the Summer 1993 issue of *News from ICSID*, six more countries have signed the ICSID Convention. Three of the new signatories are countries in the Eastern Europe and Central Asia region. In the order of their signing of the Convention, these are Slovakia, which signed on September 27, 1993; Slovenia, signing on March 7, 1994; and Uzbekistan, which signed on March 17, 1994. On signing the Convention, Slovenia also ratified. These signatures brought to twenty the number of signatories in the Eastern Europe and Central Asia region.

Among the other new signatories were Cambodia, which signed the Convention on November 5, 1993, and Nicaragua, which became a signatory on February 4, 1994. Cambodia was the fourteenth country in the East Asia and Pacific region to sign the ICSID Convention,

while Nicaragua joined twenty other countries in the Latin American and Caribbean region that have signed the Convention.

Finally, on March 21, 1994, Spain became a signatory of the Convention. With its signature, all members of the European Union are now signatories of the Convention, as are all members of the Organisation for Economic Cooperation and Development except Canada.

In total, there are now 130 signatories of the ICSID Convention and 111 Contracting States.

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The ICSID Convention was signed on behalf of Uzbekistan by its Ambassador to the United States, Fatikh Teshabaev. Pictured at the signing are, from left to right: Arnold J. Clift, Deputy Secretary, World Bank Group; Ambassador Teshabaev; Antonio R. Parra, Legal Adviser, ICSID.

Disputes Before the Centre

- **Vacuum Salt Products Ltd. v. Government of the Republic of Ghana (Case ARB/92/1)**

November 6-12, 1993

The Tribunal meets in The Hague.

January 31-February 2, 1994

The Tribunal meets in The Hague.

February 16, 1994

The Tribunal's Award, declining jurisdiction over the dispute, is rendered.

- **Scimitar Exploration Limited v. People's Republic of Bangladesh and Bangladesh Oil, Gas and Mineral Corporation (Case ARB/92/2)**

September 17, 1993

The Tribunal issues a procedural order.

November 15-16, 1993

The Tribunal holds hearings in London.

- **American Manufacturing & Trading, Inc. v. Republic of Zaire (Case ARB/93/1)**

October 1, 1993

The Tribunal holds its first session in Washington, D.C.

December 9, 1993

The Claimant files its Memorial.

- **Philippe Gruslin v. Government of Malaysia (Case No. ARB/94/1)**

January 13, 1994

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

Twenty-Seventh Annual Meeting of the Administrative Council

The Administrative Council of ICSID held its Twenty-Seventh Annual Meeting in conjunction with the Annual Meetings of the Boards of Governors of the other World Bank Group organizations and the International Monetary Fund in Washington, D.C. on September 28-30, 1993.

At its Meeting, the Council considered a report of the Secretary-General on recent developments and approved the Centre's 1993 Annual Report and the budget for ICSID's 1994 financial year. The 1993 Annual Report as thus approved is available from the Centre on request.

New Designations to the ICSID Panels of Conciliators and of Arbitrators

ITALY

Panels of Conciliators and of Arbitrators

Designations effective as of March 16, 1994: Mr. Piero Bernardini, Professor Andrea Giardina, Professor Giorgio Sacerdoti (re-appointments) and Professor Luigi Ferrari Bravo.

JAPAN

Panel of Conciliators

Designations effective as of December 23, 1993: Mr. Toru Nakagawa (re-appointment), Mr. Minoru Masuda, Mr. Michiya Matsukawa and Mr. Shinroku Morohashi.

Panel of Arbitrators

Designations effective as of December 23, 1993: Mr. Ichiro Kato (re-appointment), Mr. Yusuke Kashiwagi, Mr. Katsuhiko Utada and Mr. Yaeji Watanabe.

PAKISTAN

Panel of Conciliators

Designations effective as of October 5, 1993: Mr. Mohammad Afzal Cheema, Mr. Aftab Farrukh, Mr. Mohammad Yaqub Ali Khan (re-appointments) and Mr. Justice Khalil-ur-Rehman Khan.

Panel of Arbitrators

Designations effective as of October 5, 1993: Mr. Mazhar-ul Haq, Mr. Justice Irshad Hasan Khan, Mr. Syed Sharifuddin Pirzada and Mr. Wassim Sajjad (re-appointments).

SWITZERLAND

Panel of Conciliators

Designations effective as of May 4, 1993: Mr. Matthias Kummer (re-appointment) and Mr. Jacques-Michel Grossen.

Designation effective as of June 24, 1993: Ambassador Marino Baldi.

Panel of Arbitrators

Designations effective as of May 4, 1993: Professor Pierre A. Lalive and Professor Dietrich Schindler (re-appointments).

Designation effective as of June 24, 1993: Professor Walter A. Stoffel.

A Comparison of the NAFTA Investment Chapter with Other International Investment Instruments

by Antonio R. Parra, Legal Adviser, ICSID

Remarks made on December 11, 1993 at a training program for Mexican NAFTA Panelists held in Mexico City

Introduction

As you know, the Investment Chapter (Chapter 11) of the North American Free Trade Agreement (NAFTA) comprises two main sections: section A, which sets forth substantive obligations regarding the treatment of investment; and section B, which provides procedures for the resolution of disputes between investors and their host government.

The purpose of my presentation will be to compare provisions of the Investment Chapter with those of other international instruments—both bilateral and multilateral—that set forth substantive standards for the treatment of foreign investors and/or procedures for the resolution of disputes between such investors and their host governments.

The most important bilateral instrument of this type is the bilateral investment treaty (BIT). States started concluding treaties of this type in the late 1950s. The past few years have witnessed a great acceleration of the rate at which BITs are being concluded, and there are now over 600 such treaties in existence. About 130 different countries are parties to BITs. These treaties were first developed by Western European countries. The bulk of BITs still have a Western European country as one of the parties to the BIT. Among the NAFTA parties, the U.S. only started concluding BITs in 1982. However, it now has some 20 BITs. The majority of the U.S. BITs are with countries in Africa, Eastern Europe and the former Soviet Union. Canada's BIT program began even later than the U.S. program. The first Canadian BIT was concluded in 1989. The total number of BITs entered into by Canada is still small—only 6. Like several other important Latin American countries, Mexico has to date concluded no BIT. However, although the NAFTA parties among them have relatively few BITs—hardly more than one quarter of the number of BITs made by Germany alone—the NAFTA Investment Chapter provisions cover much the same ground as BITs. Moreover, as I will try to point out, the NAFTA Investment Chapter provisions represent in several respects innovations over or refinements to typical BITs.

I said that I would also offer some comparisons between the NAFTA Investment Chapter provisions and other instruments elaborated on a multilateral basis. These include such instruments as U.N. General Assembly resolutions, other instruments drawn up in intergovernmental settings, drafts of multilateral treaties, as well as a few actual multilateral treaties. In my discussion of these multilateral instruments, I will be focussing on three of the most recent ones. The first are the Investment Protection Principles adopted in October 1992 by the Council of the European Community to provide details for the application of the investment promotion and protection principles contained in the Fourth Lomé Convention on coop-

eration between the group of Asian, Caribbean and Pacific countries and the EC and its member States. The second such instrument is in fact still at a draft stage. This is the Energy Charter Treaty that is currently being drawn up to implement undertakings made in December 1991 by the EC and 49 countries in the European Energy Charter to liberalize trade and investment flows in the energy sector. The third new multilateral instrument that I will want to compare to the NAFTA Investment Chapter provisions are the World Bank Group Guidelines on the Treatment of Foreign Direct Investment, issued in September 1992 by the Joint Ministerial Development Committee of the World Bank and IMF in order to call countries' attention to basic legal principles conducive to promoting foreign investment flows.

Like the NAFTA Investment Chapter, the World Bank Group Guidelines contain provisions defining the scope of covered investments, and provisions on the admission of foreign investments, on general standards of treatment of such investments, on currency transfers and on expropriation as well as on the settlement of investment disputes.

Other multilateral instruments, including the EC Investment Protection Principles and the draft European Energy Charter Treaty, similarly contain provisions on their scope and on admission, general standards of treatment, currency transfers, expropriation and dispute settlement. The same is true of BITs. I will therefore want to organize my comparison around these broad subjects addressed in the NAFTA Investment Chapter and the other instruments concerned. As I will try to show, the NAFTA Investment Chapter provisions are most similar to those of BITs and recent multilateral instruments. While the NAFTA provisions contain a number of technical innovations, they are I think even more significant in terms of their subjecting to a modern investment promotion and protection regime investment flows that are extremely large but that did not previously benefit from such a regime.

Scope

In terms of the different kinds of investment that it covers, the NAFTA Investment Chapter has a very wide scope. Covered investments are defined in Article 1139 of the NAFTA as including equity or debt securities of an enterprise; interests that entitle an owner to share in the income or profits of an enterprise; tangible and intangible assets acquired or used for business purposes; interests arising from the commitment of capital such as under turnkey or construction contracts; and contracts where the remuneration depends on the production, revenues or profits of an enterprise. Excluded

from the definition of covered investments are claims to money that arise solely from commercial contracts. Other instruments are similarly broad in their coverage of the different forms that investments may take. BITs typically cover “every kind of asset”; in modern BITs, this all-embracing formula is usually followed by a list of examples of covered investments that is somewhat more specific than the listing in Article 1139 of the NAFTA (the BITs can afford to have this greater specificity because of their initially very wide definition of “investment” as meaning “every kind of asset”). A similar approach, namely to specify that investments “encompass all types of assets” and then to give an extensive list of examples, is followed in the EC Investment Protection Principles and in the draft European Energy Charter Treaty.

The World Bank Group Guidelines take what is perhaps the broadest approach, in not defining investment at all. The same approach is followed in the 1965 ICSID Convention, which is however understood as not covering ordinary commercial transactions, an exclusion that can also be found in the NAFTA provisions.

The World Bank Group Guidelines nevertheless specify that they are meant only to apply to bona fide investments, established and operating in full conformity with the laws and regulations of the host State. The main preoccupation of the draft UNCTC Code of Conduct on Transnational Corporations was, of course, on such questions relating to the conduct of foreign investors. In addition, in 1976, the members of the OECD adopted Guidelines for Multinational Enterprises which laid down standards for the activities of such enterprises. Provisions relating to the conduct of investors—even provisions as general as the one found in the World Bank Group Guidelines—are however rare in recent international instruments on investment. BITs, the EC Investment Principles, the draft European Energy Charter and of course the NAFTA Investment Chapter, all focus on the so-called “treatment” issues as opposed to the “conduct” ones.

Admission

In respect of the admission or entry of foreign investments, most BITs and earlier multilateral instruments on investment imposed few if any concrete obligations on the host country. Under most BITs and earlier multilateral instruments, the question of admission was fundamentally one for the sovereign discretion of the host country. In several of the earlier multilateral instruments, the emphasis was on the right of the host State to regulate or restrict the admission of foreign investment.

By contrast, in a number of recent BITs and in the more recent multilateral instruments, the emphases are on the free flow of investments and on limiting and defining regulatory obstacles to this flow. In the NAFTA Investment Chapter, these emphases are illustrated by, among other provisions, those that call for national and most-favored-nation (MFN) treatment in respect of admission, for the reduced scope of screening of foreign investments, for the elimination of performance requirements and for the specification (in annexes to the

NAFTA) of exceptions to the prescribed general standards on admission.

In explicitly linking both the national and MFN standards of treatment to admission, and in making it a legal obligation to accord national and MFN treatment in respect of admission, the NAFTA appears to represent the first multilateralization of an approach that had up until the NAFTA generally only been followed in some of the more recent BITs. Perhaps drawing inspiration from the NAFTA, the European Energy Charter Treaty would under its current draft become the second multilateral treaty to follow the same approach in respect of admission. Though they are not of course a treaty, the EC Principles also follow this approach to the question of admission.

More recent BITs and other instruments such as the EC Principles and the draft European Energy Charter Treaty likewise seek to limit investment screening, streamline admission procedures generally, and discourage the imposition of performance requirements as conditions for admission. The World Bank Group Guidelines also caution against the general imposition of screening, licensing and performance requirements in connection with the admission of investments.

Most modern national investment codes do not in fact introduce performance requirements as conditions of admission, but rather as conditions for access to certain benefits, notably tax or other fiscal advantages. The NAFTA appears so far to be unique in seeking to eliminate this kind of performance requirement also.

The World Bank Group Guidelines contrast approaches that rely upon performance requirements with what the Guidelines call the “more effective approach” of having open admission in principle, subject to a “negative” or restricted list of those investments that are either prohibited or require screening and licensing. The “negative list” approach is followed in a number of recent national investment codes. Several recent BITs similarly set forth in annexes sectors or investments that are excepted from the general open admission principles set forth in the main text of the treaty. The same technique is followed in NAFTA and, according to the current draft of the European Energy Charter Treaty, will also be taken in that instrument. A seemingly wide exception is the national security exception in Chapter 21 of the NAFTA. The World Bank Group Guidelines may however aid in understanding the extraordinary nature of this exception. According to the World Bank Group Guidelines, admission may be refused on national security grounds only “as an exception,” and where “in the considered option” of the State concerned, “clearly defined requirements” of national security call for such refusal.

An interesting aspect of the NAFTA Investment Chapter is that it potentially subjects to its arbitral dispute resolution mechanism admission disputes in certain situations. This point may seem largely academic, particularly as disputes arising out the admission decisions by Canada and Mexico referred to in NAFTA Annex 1138.2 would not be subject to the dispute

settlement mechanism. Other kinds of admission disputes could nevertheless be submitted to the mechanism, and this serves to underline the breadth and innovative nature of the NAFTA provisions. Arbitration clauses can be found in many national investment codes and BITs, but these clauses rarely apply to admission disputes. In this respect also, the NAFTA is most comparable to the newer BITs and multilateral instruments (the draft European Energy Charter Treaty takes essentially the same approach as the NAFTA on this point).

Treatment

In the NAFTA, the national and MFN standards do not just apply to admission: they are general standards also applicable to all other aspects of investments, from their conduct to their sale or other disposition. Article 1105 of the NAFTA supplements these standards by calling also for treatment “in accordance with international law.” According to the Article, this includes in particular treatment that is “fair and equitable” and the provision of “full protection and security.”

In providing simultaneously for national, MFN, and fair and equitable treatment and full protection and security of investments, the NAFTA clearly aims for the highest standards of treatment. In this respect, the NAFTA is again most closely comparable to more recent BITs and newer multilateral instruments, including the EC Principles, the draft Energy Charter Treaty and the World Bank Group Guidelines. Many of the older multilateral instruments in particular contented themselves with referring to just one (or sometimes two) of the national, MFN and fair and equitable standards.

The standard of fair and equitable treatment is broad and might even be regarded as being overly vague. A partial definition of the concept of “fair and equitable” treatment can however be found in the EC Principles. According to the EC Principles, the “fair and equitable” treatment standard should be understood as an “overriding concept” that encompasses in particular the following investment protection principles:

- (i) transparency and stability of investment conditions;
- (ii) full protection and security;
- (iii) most-favored-nation treatment;
- (iv) national treatment;
- (v) observance of undertakings.

For the purposes of the NAFTA, the value of this definition may be lessened by the extent to which it refers to other standards—full protection and security, MFN and national treatment—that are introduced as separate concepts by the NAFTA. However, one possible merit of the definition in this context is that it raises the question of whether a duty to observe undertakings towards the investment forms part of the obligation to accord it fair and equitable treatment. In a number of BITs, the observance of undertakings towards the investor is explicitly mentioned as a separate obligation under the BIT.

The meaning of the other traditional standard of treatment mentioned in the NAFTA, the standard of “full protection and security,” has been elucidated by one ICSID arbitral tribunal that was asked to apply that same standard as embodied in a BIT. The tribunal in that case held that the standard did not mean that the host State guaranteed, irrespective of fault, the physical protection and security of the investment, but rather that the State should exercise all “due diligence” in seeking to assure that the investment would have such protection and security.

One particular treatment matter that has been highlighted with increasing frequency in recent BITs is the freedom of the investor to hire top managers irrespective of their nationality. While the World Bank Group Guidelines also acknowledge the importance of this freedom, in the NAFTA Investment Chapter (Article 1107) it is for the first time embodied in a multilateral treaty.

Transfers

Earlier BITs and multilateral investment instruments provided for freedom of currency transfers but frequently covered only profits and liquidation proceeds. A few of the more recent BITs and such newer multilateral instruments as the World Bank Group Guidelines also cover such other transfers necessary for the conduct of the investment as debt service payments, as well as amounts due as compensation for expropriation or under the terms of an arbitral award. The NAFTA Investment Chapter provisions on transfers exemplify this trend, which has also been followed in the EC Principles and in the draft Energy Charter Treaty.

The NAFTA Investment Chapter transfer provisions provide that the host country will permit such transfers to be made “without delay.” It can be noted that the World Bank Group Guidelines, the draft Energy Charter Treaty and BITs concluded by some European countries recognize that there may, in cases of balance of payments difficulties, inevitably be delays in effecting transfers. In doing so, the World Bank Group Guidelines emphasize that such delays should be exceptional, should in any event not exceed five years, and should be compensated for by appropriate interest. Similar provisions are made in the World Bank Group Guidelines, but not in the NAFTA provisions, in connection with transfers of compensation for expropriations.

Expropriation

The NAFTA Investment Chapter prohibits expropriations of foreign investments except for a public purpose, on a non-discriminatory and fair and equitable basis, in accordance with due process of law and against fair market value compensation to be paid without delay and freely transferable outside the host country.

Earlier multilateral instruments, particularly several instruments elaborated within the U.N., took the different approach of emphasizing the right of the host State to expropriate foreign investments. The formula in the NAFTA does not deny this right; rather, it sets forth the conditions under which it may be exercised. The formula in the NAFTA is similar to that employed in many

BITs and in the newer multilateral instruments, including the World Bank Group Guidelines, the EC Principles and the draft European Energy Charter Treaty. It can be noted that BITs and the newer multilateral instruments, including the NAFTA, not only cover outright expropriations, but also cases of indirect or “creeping” expropriations.

Like almost all other international instruments, the NAFTA provides relatively few details on how fair market value is to be calculated in the event of an expropriation. The World Bank Group Guidelines are virtually unique in supplying such details. They may in this respect possibly provide some guidance in the application of the NAFTA provisions. (Indeed, the Guidelines were specifically intended to help fill “gaps” in foreign investment regimes where there were no binding applicable treaty or other provisions.)

Dispute Settlement

Earlier multilateral instruments gave prominence to the role of local courts in settling disputes between the State and foreign investors. More recent instruments, including the World Bank Group Guidelines as well as the NAFTA, focus on international arbitration, and in particular ICSID arbitration, as the means of resolving such disputes.

In this respect, the NAFTA and other recent multilateral instruments are more similar to bilateral investment treaties. The great majority of BITs envisage the settlement of investment disputes by international arbitration; and in most such treaties, mention is made of ICSID in that regard. Though most BITs have these features in common, their dispute settlement provisions otherwise exhibit much variety. A minority of such BIT provisions do not constitute advance consents by the States concerned to arbitration; they instead merely raise the possibility that the necessary consent may be given on a case-by-case basis. The majority of BIT investment dispute settlement provisions do constitute advance consents, but these provisions are also varied. Many only make reference to arbitration under the ICSID Convention and/or the ICSID Additional Facility Rules. Others, especially some of the most recent BITs, also refer to

arbitration under the UNCITRAL Arbitration Rules or other systems of arbitration. The NAFTA investment dispute settlement provisions are most like those of this last group of BITs, under which the investor is given in advance the right to resort to arbitration under the auspices of ICSID or in accordance with the UNCITRAL Arbitration Rules, whichever the investor wishes, in respect of disputes with the host State.

Another interesting feature of these most recent BITs is that they specifically entitle the investor to resort to such arbitration in respect of a violation by the host State of a right “created or confirmed” for the investor by the BIT. This feature is also replicated in the NAFTA.

Where, as so often is the case, there is advance consent to arbitration, the BIT provisions (and equivalent provisions that may be found in some countries’ investment laws) may cover many different kinds of investments of various sizes. From time to time, events may occur that give rise to claims against a State by numerous investors that can each separately submit its claim to arbitration under the BIT or other instrument. No BIT has a mechanism for the consolidation of claims in such cases, with the result that the State may have to defend multiple cases involving essentially the same facts; and all concerned may run such risks as contradictory arbitral decisions on such facts and ultimately unnecessary expenditures of financial and other resources. The consolidation provisions of the NAFTA Investment Chapter dispute resolution section address these questions in an effective manner. In so doing, the NAFTA may point a way for drafters of future investment treaties to make their investment dispute settlement arrangements more efficient.

The World Bank Group Guidelines and background studies covering many of the instruments described above are published in the Fall 1992 issue of the ICSID Review—Foreign Investment Law Journal. Those documents are discussed in depth in Ibrahim F.I. Shihata, Legal Treatment of Foreign Investment: The World Bank Guidelines (Martinus Nijhoff Publishers, 1993).

ICSID Review—Foreign Investment Law Journal

The Centre has recently completed the Fall 1993 issue of its *ICSID Review—Foreign Investment Law Journal*. The issue includes two articles commenting on the ICSID award in the case of *SPP v. Arab Republic of Egypt* by Georges R. Delaume, and W. Laurence Craig. The issue also includes an article on the 1988 Angolan investment law by Bentley J. Anderson.

Other materials in the issue include the texts of the award and the dissenting opinion in the *SPP* case and the 1988 Angolan investment law. Nagla Nassar and Nassib G. Ziadé provide the issue's reviews of *Choice of Law Problems in International Commercial Arbitration* (Horacio Grigera Naón) and *ICSID Reports, Volume 1* (Grotius Publications) 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, 2715 North Charles Street, Baltimore, Maryland 21218-4319, U.S.A. Annual subscription rates (excluding postal charges) are US\$50 for persons with a mailing address in a member country of the Organisation for Economic Co-operation and Development and US\$25 for others.

Eleventh Joint ICSID/AAA/ ICC International Court of Arbitration Colloquium on International Arbitration San Francisco, California October 17, 1994

ICSID, the American Arbitration Association (AAA) and the International Chamber of Commerce (ICC) International Court of Arbitration will this year be co-sponsoring the eleventh in their series of colloquia on international arbitration.

The eleventh colloquium will be dedicated to the topics of "conciliation and mediation" and "arbitration and intellectual property." The colloquium will take place on October 17, 1994 in San Francisco, California in conjunction with a conference organized by the Asia/Pacific Center for the Resolution of International Business Disputes. Further details on the colloquium will appear in the next issue of *News from ICSID*.

Investment Laws of the World

A new release (94-1) of ICSID's *Investment Laws of the World* was issued in March 1994. The release contains the texts of the basic investment legislation of Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. This release brought to 108 the number of countries covered by the collection.

Investment Laws of the World (10 volumes) may be purchased at US\$950 from Oceana Publications, Inc., 75 Main Street, Dobbs Ferry, New York 10522, U.S.A. Tel: (914) 693-8100, Fax: (914) 693-0402.

Investment Treaties

A new release (94-2) of the Centre's *Investment Treaties* collection will be issued shortly. The release will contain the texts of twenty-four bilateral investment treaties (BITs) signed in 1993. This release will for the first time include BITs concluded by Barbados, Croatia, Czech Republic, Georgia, Kyrgyz Republic, Moldova, Slovenia, Trinidad and Tobago, Ukraine and Uzbekistan. Due to the substantial number of new treaties, the issuance of a sixth volume of the *Investment Treaties* collection will take place with this release.

The *Investment Treaties* collection (6 volumes) is available at US\$450 from Oceana Publications at the address shown above.

Other New ICSID Publications

The Centre has recently published several new brochures. These include the French and Spanish versions of the revised edition of the *ICSID Model Clauses* (described in the Winter 1993 issue of *News from ICSID*). ICSID has also recently published the fourth edition of *ICSID Cases*. The *ICSID Cases* brochure provides summary data on each of the cases registered by ICSID up to March 31, 1994 (e.g., dates of the commencement of proceedings, information on their outcomes, and names and nationalities of tribunal members). The Centre will shortly be publishing a third edition of the *ICSID Bibliography*. This booklet provides references to articles and books dealing with ICSID as well as references to texts and translations of the ICSID Convention, publications of the Centre, and published decisions of ICSID cases. With updates incorporated in the new edition, the booklet contains references to over three hundred articles and books dealing with ICSID.

All of the above brochures are available from the Centre on request.

Recent Publications on ICSID

Amerasinghe, C.F.

Interpretation of Article 25(2)(b) of the ICSID Convention, in *International Arbitration in the 21st Century: Towards "Judicialization" and Uniformity?* 223 (R. Lillich and C. Brower eds., 1994).

Bliesener, D.H.

La compétence du CIRDI dans la pratique arbitrale, 68 *Revue de droit international et de droit comparé* 95 (1991).

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Convention on the Settlement of Investment Disputes Between States and Nationals of Other States of 1965, Explanatory Notes and Survey of its Application, 18 *Yearbook Commercial Arbitration* 627 (1993).

Buckley, Ross P.

Some Jurisdictional Difficulties with Australia's Ratification of the ICSID Convention, 2 *Asia Pacific Law Review*, No. 1, at 92 (1993).

Gaillard, Emmanuel

Centre International pour le Règlement des Différends Relatifs aux Investissements: Chronique des sentences arbitrales, 121 *Journal du droit international* 217 (1994).

Giardina, Andrea

ICSID: A Self-Contained, Non-National Review System, in *International Arbitration in the 21st Century: Towards "Judicialization" and Uniformity?* 199 (R. Lillich and C. Brower eds., 1994).

Merciai, Patrizio

Les entreprises multinationales en droit international 205-219 (1993).

Parra, Antonio R.

ICSID and New Trends in International Dispute Settlement, 87 *American Society of International Law Proceedings* 2 (1993).

Rambaud, Patrick

Des obligations de l'Etat vis-à-vis de l'investisseur étranger (Sentence *AAPL c. Sri Lanka*), 38 *Annuaire français de droit international* 501 (1992).

Sharma, Surya P.

Interpretation of Bilateral Investment Treaties: The Case of *Asian Agricultural Products Ltd. v. Republic of Sri Lanka*, 1 *Asia Pacific Law Review*, No. 2, at 123 (1992).

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