NEWS FROM ICSID

International Centre for Settlement of Investment Disputes

Vol. 5, No. 2 Summer 1988

Major Features

- MIGA Opens for Business.
- Sixth ICSID/AAA/ICC Colloqium on international arbitration.
- ICSID and Arab Countries.
- ICSID Review - Foreign Investment Law Journal.

Membership in the New York Convention

On April 6, 1988, the Government of Bahrain acceded to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) while the Government of Peru acceded to the New York Convention on July 7, 1988. The instrument of accession of Bahrain contained the so-called reciprocity and commercial reservations. Under these reservations a State undertakes to apply the Convention only, on the basis of reciprocity, to the recognition and enforcement of arbitral awards made in the territory of another Contracting State and only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of that State.

In accordance with Article XII(2), the Convention has entered into force for Bahrain on July 5, 1988, i.e., the ninetieth day after the date of the deposit of its instrument of accession. The Convention will enter into force for Peru on October 5, 1988.

With the accession of Peru, the number of states that have either ratified or acceded to the New York Convention has reached 77. Nine of these states are Latin American ones.

In addition, legislation approving the New York Convention has been passed by Parliament in the Commonwealth of Dominica (Arbitration Act 1988, on April 8, 1988). It is expected that Dominica's instrument of accession to the Convention will be deposited in the near future.

Investment Laws of the World

Two new releases (Release 88/1 and Release 88/2) of the ILW collection have been issued in the Summer of 1988. Included in Release 88/1 are the basic investment legislation of Tunisia, Chad, Malaysia, Uruguay, Mozambique and Senegal. Release 88/2 has added the texts of 21 bilateral investment treaties to the Investment Treaties series, which is part of the ILW collection.

Recent Publications on ICSID

Audit, Bernard
L'Arbitrage transnational et les contrats d'Etat: Bilan et perspectives, in *Transnational Arbitration and State Contracts* 23-76 (Centre for Studies and Research in International Law and International Relations of the Hague Academy of International Law 1987).

de Berranger, Thibaut
L'article 52 de la Convention de Washington du 18 mars 1965 et les premiers enseignements de sa pratique, 1988 *Revue de l'Arbitrage* 95-116.

de Waart, Paul J.I.M.
ICSID and Other Forms of Arbitration and Conciliation: Institutionalization of Dispute Settlement in the Context of the Right of Development, in *Foreign Investment in the Present and a New International Economic Order* 116-36 (D. Dicke ed. 1987).

Gaillard, Emmanuel
Chronique des sentences arbitrales du Centre International pour le Règlement des Différends Relatifs aux Investissements, 115 *Journal du Droit International* 165-88 (1988).

Some Notes on the Drafting of ICSID Arbitration Clauses, 3 *ICSID Review - Foreign Investment Law Journal* 136-46 (1988).

Kahn, Philippe
Le contrôle des sentences arbitrales rendues par un tribunal CIRDI, in *La Juridiction Internationale Permanente* 363-82 (Colloque de Lyon 1987).

Kraft, Matthias-Charles
Les accords bilatéraux sur la protection des investissements conclus par la Suisse, in *Foreign Investment in the Present and a New International Economic Order* 72, 83-87 (D. Dicke ed. 1987).

Lattanzi, Flavia
Convenzione di Washington sulle controversie relative ad investimenti e invalidità delle sentenze arbitrali, 70 *Rivista di Diritto Internazionale* 521-47 (1987).

Sixth ICSID/AAA/ICC Colloquium on International Arbitration Paris, October 27, 1988

On October 27, 1988 a joint conference on The Arbitral Process and the Independence of Arbitrators will be held in Paris, France. This conference will be the sixth in a series of annual symposia organized by the Centre, the American Arbitration Association (AAA) and the Court of Arbitration of the International Chamber of Commerce (ICC). Hosted by the ICC, the conference will focus on the issue of the independence and of the impartiality of the arbitrators throughout the arbitral process.

Three specific topics will be addressed during the colloquium:

1. *The selection of arbitrators: The experience of the AAA, ICC and ICSID in the confirmation/appointment stage of an arbitration.*
(speakers: Mr. Michael F. Hoellering, General Counsel, AAA; Mr. Stephen R. Bond, Secretary General, ICC Court of Arbitration; Mr. Ibrahim F.I. Shihata, Secretary-General, ICSID.)

2. *The conduct of the arbitral proceedings: Standards of behaviour of arbitrators.*
(speakers: Prof. Giorgio Bernini, President, International Council for Commercial Arbitration (ICCA); Mr. Howard Holtzmann, Member, Iran-United States Claims Tribunal, The Hague; Mr. Fali S. Nariman, President of the Law Association for Asia and the Pacific.)

3. *The challenge procedure: The role of arbitral institutions, the intervention of local courts.*
(speakers: Mr. Guillermo Aguilar-Alvarez, General Counsel, ICC Court of Arbitration; Mr. Robert B. von Mehren, Partner, Debevoise & Plimpton; Dr. Albert Jan van den Berg, Partner, Van Doorne & Sjollema Advocaten.)

After the formal presentations, each topic will be discussed by a panel of three experts from diverse cultural and legal backgrounds, following which the floor will be open to questions from the participants to the conference. (Panelists will include Professor Karl Heinz Böckstiegel, President, Iran-United States Claims Tribunal; Mr. Martin H. Hunter, Partner, Freshfields; Professor Ivan Szaasz, Member of Presidential Council, the Arbitration Court of the Hungarian Chamber of Commerce; Mr. Gerald Aksen, partner, Reid & Priest; Mr. René Bourdin, Member, ICC Court of Arbitration; Mr. Khaled Kadidi, Judge at the Supreme Court of Libya; Mr. Marc Blessing, Partner, Bar & Karrer; Mr. Mohamed Hassan, Vice-Chairman, ICC Court of Arbitration; and Mme Simone Rozès, Premier Président de la Cour de Cassation.)

The concluding remarks will be made by Professor Pierre Lalive, Professor at the University of Geneva, Attorney-at-Law, Lalive, Budin & Partners.

For further information on the conference contact:

Secretariat of the Chairman
ICC Court of Arbitration
38, Cours Albert 1er
75008 Paris, France
Tel: (1) 45.62.34.56 - Ext.: 1388
Telex: 650770 ICCHQ
Telefax: (1) 42.25.97.40

ICSID Review - Foreign Investment Law Journal

The fifth issue (Spring 1988) of the Review included the following:

Articles by:
Herbert V. Morais, "Promotion by the World Bank of Private Investment Flows to Developing Countries through Cofinancing and Other Measures";

Oserheimen A. Osunbor, "Nigeria's Investment Laws and the State's Control of Multinationals";

Georges R. Delaume, "The Proper Law of State Contracts and the *Lex Mercatoria:* A Reappraisal";

Hugo Caminos, "The Inter-American Convention on International Commercial Arbitration";

P.G. Lim, "The Kuala Lumpur Regional Arbitration Center";

Samia S. Rashed, "The UNCITRAL Model Law and Recent Developments in Egypt".

Comments by:
Emmanuel Gaillard, "Some Notes on the Drafting of ICSID Arbitration Clauses";

Ahmed Sharaf Eldine, "Legislative Stability and the Investment Climate: A Comment on the Unified Agreement for the Investment of Arab Capital in the Arab Countries".

Cases
Letco v. Liberia, Decision of U.S. District Court, District of Columbia, April 16, 1987;

Amco Asia v. Indonesia, Decision on Jurisdiction of the Tribunal, May 10, 1988.

Documents
The Unified Agreement for the Investment of Arab Capital in the Arab Countries;

The New Swiss Law on International Arbitration;

Lebanon's Law on International Arbitration.

Bibliography
Nassib G. Ziadé, "References on State Contracts".

The sixth issue of the Review is scheduled to be published in the Fall of 1988.

New Additions to the Panels of Conciliators and of Arbitrators

In accordance with the provisions of Article 13(2) of the Convention, the Chairman of the Administrative Council appointed the following persons to the Panels of Conciliators and of Arbitrators, effective April 7, 1988;

Mr. M.Y. Abdel-Aal (Sudanese), Prof. Ian Brownlie, QC, FBA (British), Prof. Berthold Goldman (French) (re-appointment), Mr. Monroe Leigh (American) (re-appointment), Judge Kéba MBaye (Senegalese), and Prof. Sompong Sucharitkul (Thai).

ICSID and Arab Countries

by

Nassib G. Ziadé

The Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (the ICSID Convention) has attracted a large membership, which so far encompasses 89 developed and developing countries from all the major regions of the world. This article examines the influence that ICSID, and its system for the international conciliation and arbitration of investment disputes between governments or governmental entities and foreign investors, has had in the Arab region, which includes both capital-exporting and capital-importing developing countries.

Arab countries are often viewed as having negative attitudes towards international arbitration. As among other groups of developing countries, international arbitration has been seen as an institution administered by, and largely serving the interests of, developed countries. Such perceptions, often arising from their experience in specific arbitral cases, have in the past led a number of Arab countries to adopt restrictive legislation and policies in the field of international arbitration. For example, in the wake of the *Aramco/Saudi Arabia* arbitration, which resulted in an award holding that the rights and obligations of Aramco were in the nature of acquired rights which could not be modified by Saudi Arabia without Aramco's consent, the Council of Ministers of Saudi Arabia adopted a resolution (Resolution No. 58 of June 25, 1963) prohibiting all governmental bodies from consenting to arbitration as a method for the settlement of disputes arising out of contracts concluded with companies or private parties.

However, such attitudes towards arbitration seem more to be rooted in particular events than in the traditions and overall outlooks of Arab countries. Indeed, arbitration has long been an institution recognized in Islamic law. In a well-known episode in Islamic history, a very important dispute that arose over succession to the supreme office of the nation (the Caliphate) was settled by arbitration. In more recent times, Arab countries appear increasingly to have adopted more favorable attitudes to international arbitration and ICSID seems to have played a role in this change in attitudes.

Membership in ICSID

Arab States have in fact shown an interest in the arbitration system provided by the ICSID Convention since the inception of the Convention. Tunisia was the first State to sign the ICSID Convention (on May 5, 1965); since then, a further 9 Arab countries have become parties to the ICSID Convention. These are Egypt, Jordan, Kuwait, Mauritania, Morocco, Saudi Arabia, Somalia, Sudan, and the United Arab Emirates.

The case of Saudi Arabia is particularly noteworthy. However, it may also be recalled that Saudi Arabia was one of the few Contracting States that made use of its right under Article 25(4) of the ICSID Convention to notify ICSID of the class or classes of disputes that it would or would not consider submitting to ICSID. On ratifying the Convention, Saudi Arabia declared that it "reserves the right of not submitting all questions pertaining to oil and pertaining to acts of sovereignty to the International Centre for Settlement of Investment Disputes whether by way of conciliation or arbitration." It may also be mentioned that under Article 3 of the Saudi Arbitration Regulations issued by Royal Decree No. M/46 dated April 25, 1983 "Government Agencies may not resort to arbitration to settle their disputes with third parties except after approval of the President of the Council of Ministers..." This requirement, assuming it applies to ICSID arbitration, might limit the number of occasions on which Saudi Governmental entities may resort to ICSID arbitration.

ICSID Cases

In addition to joining ICSID, a number of Arab countries (or nationals of such countries) have participated actively in the ICSID system as parties to cases submitted to the Centre. In fact, the first case to be submitted to ICSID, *Holiday Inns S.A./Occidental Petroleum Corporation v. Government of Morocco*, involved an Arab State. During the 1980s, two further cases involving Arab States, *SPP (Middle East) Limited v. Arab Republic of Egypt* and *Dr. Ghaith R. Pharaon v. Republic of Tunisia*, have been registered by the Centre. The *SPP* case involved prior proceedings before the International Chamber of Commerce (ICC) Court of Arbitration, and was submitted to ICSID following the annulment of the ICC award in that case by the Paris Court of Appeal. In the *Pharaon* case, both the claimant (a Saudi national) and the respondent State were Arab parties, making this the first "South-South" ICSID arbitration. In addition, the *Pharaon* case was the first ICSID case involving a dispute between a Contracting State and a natural, as opposed to a juridical person. Interestingly, each of the above three cases concerned tourism projects.

In connection with the cases, it may be recalled that Article 63(a) of the ICSID Convention envisages that one possible venue for ICSID conciliation and arbitration proceedings will be the seat of any "appropriate institution" with which ICSID may make arrangements for this purpose. Pursuant to this provision, ICSID in February of 1980 entered into an arrangement with the Asian-African Legal Consultative Committee's Regional Centre for Commercial Arbitration at Cairo, Egypt, providing for the conducting at the seat of

either institution of proceedings taking place under the auspices of the other institution. Although no ICSID proceeding has so far been held in an Arab country, this arrangement may facilitate the choice of such a country as the venue for ICSID proceedings if the parties so desire.

National Legislation

ICSID has also had an effect on the investment legislation of a number of Arab States, in the form of provisions referring to ICSID procedures as a possible means for the settlement of disputes with foreign investors. Egypt's Law No. 43 of June 19, 1974 relating to the Investment of Arab and Foreign Funds and the Free Zones was among the first investment laws of Arab countries to make reference to ICSID as one of several methods of settling investment disputes. Article 8 of this law, as it appears in ICSID's collection of *Investment Laws of the World*, provides:

> *Investment disputes in respect of the implementation of the provisions of this Law shall be settled in a manner to be agreed upon with the investor, or within the framework of the agreements in force between the Arab Republic of Egypt and the investor's home country, or within the framework of the Convention for the Settlement of Investment Disputes between the State and the nationals of other countries to which Egypt has adhered by virtue of Law No. 90 of 1971, where such Law applies.*
>
> *Disputes may be settled through arbitration. An Arbitration Board shall be constituted, comprising a member on behalf of each disputing party and a third member acting as chairman to be jointly named by the said two members....*

A similar pattern is followed in Article 19 of Somalia's Foreign Investment Law No. 19 of May 9, 1987 which provides that:

> *1. Disputes in respect of the implementation of this law shall be settled:*
>
> *(a) In a manner to be agreed upon with the investor, or in the absence of such agreement;*
>
> *(b) Within the framework of the agreements in force between the Somali Democratic Republic and the investor's home country,*
> *or, in the absence of (a) and (b);*
>
> *(c) Within the framework of the Convention for the Settlement of Investment Disputes between the State and the Nationals of Other Countries, to which Somalia has adhered by virtue of Law No. 11 of 1967, when such convention applies;*
>
> *2. In the absence of agreements or convention as per paragraph 1 of this Article, disputes shall be settled through arbitration. An arbitration board shall be established, comprising one member on behalf of each disputing party and a third member acting as a chairman, to be jointly named by the said two members....*

Similar provisions are also contained in Sudan's Encouragement of Investment Act of April 26, 1980 (Art. 32); in three laws of Morocco concerning investments in different sectors: Law No. 17/82 on industrial investments (Art. 39); Law No. 21/82 on maritime investments (Art. 29); and Law No. 1/84 on mining investments (Art. 35); and in three laws of Tunisia: Law No. 69-35 of June 26, 1969 relative to the Code of Investments (Art. 20); Law No. 86-85 of September 1, 1986 on tourism investments (Art. 28); and Law No. 87-51 of August 2, 1987 on industrial investment (Art. 41). (The texts of all of the laws mentioned are reproduced in ICSID's collection of *Investment Laws of the World*.) The interpretation of the provision of one of these laws, namely Egypt's Law No. 43 has been an issue in the ICSID case of *SPP (Middle East) Limited v. Arab Republic of Egypt* and the subject of a recent decision on jurisdiction by the arbitral tribunal in that case.

Treaties

Participation by Arab States in the ICSID system is also reflected in a number of investment treaties concluded by them, both on the bilateral and on the multilateral level.

1. *Bilateral Treaties*

Some of the bilateral investment treaties (BITs) which have been entered into by Arab countries refer to ICSID procedures for the settlement of disputes between a Contracting Party and investors which are nationals of the other Contracting Party, frequently in the form of clauses setting out each Contracting Party's advance consent to submit such disputes to ICSID. (The texts of such treaties are published in ICSID's collection of *Investment Treaties*.) Such clauses may be found in BITs concluded between Arab countries not only with industrialized market economy countries, but also with socialist countries (such as the May 10, 1976 BIT between Egypt and Romania and the December 8, 1978 treaty between Romania and Sudan) and other developing countries (such as the March 17, 1983 BIT between Kuwait and Pakistan). Except for Saudi Arabia and the United Arab Emirates, all the Arab States that have ratified the ICSID Convention have in fact concluded at least one BIT containing such an ICSID clause.

In some of the BITs, the Contracting Parties made use of the right accorded to them by Article 26 of the ICSID Convention to require the exhaustion of local remedies as a condition of their consent to ICSID arbitration. Examples are the October 30, 1976 BIT between the Netherlands and Egypt and the July 15, 1975 BIT between France and Morocco. Article VI of the Netherlands-Egyptian BIT requires the prior "exhaustion of all internal administrative and judicial remedies," and Article 10 of the French-Moroc-

can agreement requires "...que les voies de recours internes aient été épuisées, cette... condition disparaissant deux ans après la date de la première saisine des tribunaux."

Oman, Syria, and the Yemen Arab Republic, although not parties to the ICSID Convention, have also concluded BITs containing references to ICSID. Article 10(6) of the Oman-Germany BIT of June 25, 1979 envisages the possibility of agreement between one Contracting Party and nationals of the other Contracting Party to have recourse to ICSID for the settlement of investment disputes "if both Contracting Parties are members" of the ICSID Convention, and that in such a case the provisions of the BIT on inter-State procedures to deal with such disputes may not be invoked unless there is a failure to comply with the eventual ICSID award or if the rights of one party to the dispute are assigned to a third party (e.g., a national investment guarantee agency) which would lack standing to resort to ICSID arbitration. Article 8 of the Syria-France BIT of November 28, 1977 also takes into account the fact that one of the Contracting Parties is not an ICSID member, in this case by providing for the submission to the ICC of investment disputes within the scope of the BIT if recourse to ICSID is "legally impossible." In full, the latter provision reads: "Chacune des Parties contractantes accepte de soumettre au Centre international pour le règlement des différends relatifs aux investissements (CIRDI) ou, si le recours à ce premier organisme se révélait impossible en droit, à la Chambre de commerce internationale, les différends qui pourraient l'opposer à un ressortissant ou à une société de l'autre Partie contractante."

In contrast, the BITs concluded by the Yemen Arab Republic (with the United Kingdom on February 25, 1982 and with the Netherlands on March 18, 1985) do not contain an alternative to the settlement of investment disputes by their submission to ICSID, despite the fact that until Yemen becomes a member of ICSID recourse by Yemen or its nationals to ICSID arbitration would presumably not be possible under the ICSID Convention.

2. *Multilateral Treaties*

A number of multilateral treaties relating to investments have also been concluded among Arab countries in recent years. These include the 1971 Convention Establishing the Arab Investment Guarantee Corporation (AIGC). Until the establishment earlier this year of the Multilateral Investment Guarantee Agency (MIGA), AIGC was the only multilateral investment guarantee scheme in existence although AIGC is a regional scheme in contrast to the globally operating MIGA. Another multilateral Arab treaty in this area is the 1980 Unified Agreement for the Investment of Arab Capital in Arab Countries, which seeks to promote the investment of Arab capital in the region by, among other means, establishing standards for the treatment of such capital by host countries. Although it has now been superseded by the 1980 Unified Agreement, a third multilateral treaty is of particular interest in the context of the present article. This is the 1974 Convention on the Settlement of Investment Disputes between Host States of Arab Investments and Nationals of Other Arab States (the 1974 Arab Convention) which, as its name implies, was based closely on the ICSID Convention. Like the ICSID Convention, the 1974 Arab Convention established a system for the conciliation and arbitration of investment disputes between States parties to the Convention and nationals of other parties. The parties to the 1974 Arab Convention included Egypt, Jordan, Kuwait, Libya, Sudan, Syria and the United Arab Emirates. Though very similar to the ICSID Convention, the 1974 Arab Convention differed from the ICSID Convention in some respects, two of which may be mentioned here. The first is that the 1974 Arab Convention, perhaps because of the high value that has always been placed on conciliation in the Arab world, made recourse to conciliation a prerequisite to recourse to arbitration under that Convention. Only if the conciliation effort failed could the parties submit the dispute to arbitration (Art. 3 of the 1974 Arab Convention). By contrast, under the ICSID Convention, arbitration is available as a method for settling disputes within the Centre's jurisdiction whether or not the parties have previously made use of the ICSID conciliation procedure. A second interesting difference between the two Conventions concerns the law to be applied by the arbitral tribunal. While according to Article 42 of the ICSID Convention, the arbitral tribunal must apply the law of the State party to the dispute and such rules of international law as may be applicable only in the absence of agreement to the contrary between the parties, Article 16(1) of the 1974 Arab Convention appeared to have deprived parties of the opportunity to agree on a different applicable law, with the result that the tribunal would always be required to apply the law of the State party and the applicable international law rules.

As mentioned above, the 1974 Arab Convention has been superseded by the 1980 Unified Agreement, which came into force in 1981 and which has so far been ratified by 17 Arab countries. While covering the more general area of the regulation of inter-Arab investments, the 1980 Agreement contains provisions on the settlement of disputes falling within the scope of that Agreement. According to Article 29 of the 1980 Agreement, these include disputes:

> *a) Between any Contracting State and another Contracting State, or between a Contracting State and institutions or public entities belonging to other Contracting States, or between institutions and public entities belonging to more than one Contracting State.*
>
> *b) Between those specified in paragraph (a) and Arab investors.*
>
> *c) Between those specified in paragraph (a) and (b) and institutions providing investment guarantees in accordance with the Convention.*

Under Article 25 of the 1980 Agreement, such disputes are to be settled through conciliation or arbitration procedures

detailed in an annex to the 1980 Agreement or by the Arab Investment Court, a judicial body established by the 1980 Agreement.

Conclusion

Arab States may have in the past felt that they would be at a disadvantage as participants in the international arbitral process, which they frequently saw as entailing the application to them of rules which were elaborated by developed States. However, Arab States, much like many other developing countries, have discovered that arbitration is an important tool which should not be dispensed with, particularly as it is well embedded in their own traditions. In addition to their adherence to the ICSID Convention, Arab countries have been taking a number of other steps to strengthen the role that arbitration can play in their international investment and commercial relations. For example, eight Arab countries are now parties to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. These are Bahrain, Djibouti, Egypt, Jordan, Kuwait, Morocco, Syria and Tunisia. In addition, representatives of the Union of Arab Chambers of Commerce and of the League of Arab States helped in the establishment of the Euro-Arab Arbitration system. Finally, a number of Arab countries, notably Egypt, Djibouti and Lebanon, have in recent years adopted or are in the process of adopting liberal laws on international arbitration (the Egyptian law being based on the UNCITRAL Model Law on international commercial arbitration) which should increase their attractiveness to parties as venues for international arbitrations.

Disputes before the Centre

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

February 23, 1988	Amco files its Supplemental Observations on Jurisdiction and Res Judicata.
March 3, 1988	Indonesia files its response to Amco's submissions of February 23, 1988.
March 4–5, 1988	The Tribunal meets in London.
March 18–20, 1988	The Tribunal meets in New York.
April 30–May 1, 1988	The Tribunal meets in London.
May 10, 1988	The Tribunal issues a Decision on Jurisdiction.
July 11, 1988	Amco files its Memorial with exhibits.

Klöckner/Cameroon (Case ARB/81/2) - Annulment

July 1, 1988	The Secretary-General registers applications submitted by the parties for annulment of the award of January 26, 1988.
July 8, 1988	The Secretary-General informs the parties that the *ad hoc* Committee, provided for under Article 52(3) of the Convention, has been constituted. Its members are: Prof. Andrea Giardina (Italian), Judge Kéba MBaye (Senegalese) and Prof. Sompong Sucharitkul (Thai).
July 27, 1988	The *ad hoc* Committee meets in The Hague in the presence of the parties on matters of procedure. Prof. Sucharitkul is elected President of the Committee.

Colt Industries Operating Corp., Firearms Division v. the Government of Korea (Case ARB/84/2)

March 4, 1988	The Tribunal issues an Order granting a further stay of the proceeding.

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

April 14, 1988	The Tribunal issues a Decision on Preliminary Objections to Jurisdiction. Attached to the Decision is a dissenting opinion by one of the arbitrators.

Maritime International Nominees Establishment (MINE) v. the Republic of Guinea (Case ARB/84/4) - Annulment

March 28, 1988	The Republic of Guinea files an application for annulment of the Award of January 6, 1988, with a request for stay of enforcement of the award.
March 30, 1988	The Secretary-General registers the application and informs the parties that enforcement of the award is provisionally stayed pursuant to the provisions of the Convention.

April 29, 1988	The Secretary-General notifies the parties that the *ad hoc* Committee, provided for under Article 52(3) of the Convention, has been constituted. Its members are: Mr. Aron Broches (Netherlands), Judge Kéba MBaye (Senegalese) and Prof. Sompong Sucharitkul (Thai).
May 17, 1988	Prof. Sucharitkul is elected President of the Committee. The Committee determines that enforcement of the Award is stayed provisionally until the Committee rules on Guinea's request for stay of enforcement of the award, and invites the parties to submit their observations in this respect.
May 27, 1988	MINE files a Memorandum containing its observations on Guinea's request for stay.
June 7, 1988	Guinea files its Reply in response to MINE's Memorandum.
June 16–17, 1988	The Committee meets in The Hague in the presence of the parties to review matters of procedure, and to consider the request for stay.
June 17, 1988	The Committee issues an Order on matters of procedure and invites the parties to submit additional written observations on the issue of the stay.
June 27, 1988	Guinea files a Supplemental Memorandum on the issue of stay of enforcement.
July 6, 1988	MINE files a Reply to Guinea's Supplemental Memorandum.

Dr. Ghaith R. Pharaon v. the Republic of Tunisia (Case ARB/86/1)

April 28, 1988	Respondent files its objections to jurisdiction.
May 3, 1988	The Tribunal suspends the proceeding on the merits to examine the issue of jurisdiction raised by Respondent.
July 19, 1988	Claimant files its Commentary on Respondent's objections to jurisdiction.

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

April 5, 1988	The proceeding is suspended until the vacancy resulting from the death of Mr. Faure has been filled.
May 25, 1988	The Secretary-General notifies the parties that the Tribunal is reconstituted and that the proceeding has resumed from the point it had reached at the time the vacancy occurred. The members of the Tribunal are: Prof. Claude Reymond (French), President, appointed by the parties, Mr. Henri Caillavet (French), appointed by Claimant to replace Mr. Edgar Faure, and Mrs. Marie-Madeleine Mborantsuo (Gabonese), appointed by Gabon.
June 20, 1988	The Tribunal meets in Geneva in the presence of the parties on matters of procedure.

Mobil Oil Corporation, Mobil Petroleum Company, Inc., Mobil Oil New Zealand Limited v. New Zealand Government (Case ARB/87/2)

April 12–13, 1988	The Tribunal meets in Auckland in the presence of the parties on matters of procedure.
May 6, 1988	Claimant files its Memorial with supporting documentation.
June 17, 1988	Respondent files its Counter-Memorial with supporting documentation.
June 28, 1988	Claimant files its Reply
July 11, 1988	Respondent files its Rejoinder

Asian Agricultural Products Ltd. v. The Democratic Socialist Republic of Sri Lanka (Case ARB/87/3)

April 13, 1988	Claimant files its Memorial.
June 20, 1988	Respondent files its Counter-Memorial with supporting documentation.

Occidental of Pakistan Inc. v. The Islamic Republic of Pakistan (Case ARB/87/4)

May 6, 1988	The Tribunal is constituted. Its members are: Prof. Ian Brownlie (British), President, appointed by the Chairman of the Administrative Council, Mr. Anthony Colman (British), appointed by Claimant, and Mr. Ashraf Ullah Khan (British), appointed by Respondent.

MIGA Opens for Business

On April 12, 1988, the Convention Establishing the Multilateral Investment Guarantee Agency (MIGA) entered into force on its ratification by the United States and the United Kingdom. As the newest member of the World Bank Group, MIGA will encourage investment flows among its member countries and to its developing member countries in particular. It especially focus on stimulating foreign direct investment and equity-type investment. To serve this objective, MIGA will guarantee foreign investments in its developing member countries against non-commercial risks and carry out a broad range of research, technical assistance and consultative functions to help create conditions conducive to investments that contribute to the development of their host countries.

On June 8, 1988, MIGA's Council of Governors held its inaugural meeting in Washington, D.C. The Council elected MIGA's Board of Directors. This Board presently consists of fourteen Directors, eleven of whom serve at the same time as Executive Directors or Alternate Executive Directors of the World Bank. Developed and developing countries are each represented by seven Directors.

On June 22, 1988, MIGA's Board had its first meeting in the World Bank's premises under the chairmanship of Mr. Barber B. Conable, President of the World Bank and other institutions in the Bank Group. At this meeting, the Board elected Mr. Conable as the Agency's first President. The Board also adopted MIGA's operational regulations and other basic policies that were prepared in September 1986 by a preparatory committee of signatory States under the chairmanship of the World Bank's Vice President and General Counsel.

On July 1, 1988, MIGA's first Executive Vice President, Mr. Yoshio Terasawa of Japan (pictured left), took office and MIGA opened for business. Pending the appointment of MIGA's other top management officers, a process which is expected to be completed by the end of the Summer, an interim administration was established to receive application for the Agency's investment guarantees and assist investors to prepare for negotiations of contracts with MIGA's management.

As of August 5, 1988, MIGA counted forty-four member countries, including twelve capital exporting (developed) countries and thirty-two capital importing (developing) countries, which together have subscribed to 63.47 percent of MIGA's authorized capital of $1.082 billion i.e., some U.S. $687 million. These forty-four countries are Bahrain, Bangladesh, Barbados, Canada, Chile, China, Côte d'Ivoire, Cyprus, Denmark, Ecuador, Egypt, Germany, Ghana, Grenada, Hungary, Indonesia, Italy, Jamaica, Japan, Jordan, Republic of Korea, Kuwait, Lesotho, Madagascar, Malawi, Netherlands, Nigeria, Pakistan, Portugal, St. Lucia, Saudi Arabia, Senegal, Spain, Sri Lanka, Sweden, Switzerland, Togo, Tunisia, Turkey, United Kingdom, United States, Vanuatu, Western Samoa, and Zambia. In addition, the following twenty-seven countries have signed but not yet ratified the MIGA Convention: Benin, Bolivia, Burkina Faso, Cameroon, Colombia, Congo, Dominica, Equatorial Guinea, Fiji, Finland, France, Greece, Guyana, Haiti, Ireland, Kenya, Malta, Morocco, Norway, Oman, Philippines, St. Kitts & Nevis, Sierra Leone, Sudan, Uruguay, Yemen Arab Republic, and Zaire.

Although in business for just a few weeks, MIGA has already registered eight preliminary applications for guarantees for investment projects in seven countries as provisionally eligible for coverage. On September 25, 1988, MIGA will sponsor a symposium on investment policies in Berlin (West), on the occasion of the World Bank/International Monetary Fund Annual Meetings.

Inaugural meeting of the Council of Governors of the Multilateral Investment Guarantee Agency, Washington, D.C., June 8, 1988.

NEWS FROM ICSID

is published twice yearly by the International Centre for Settlement of Investment Disputes. ICSID would be happy to receive comments from readers of **News from ICSID** about any matter appearing in these pages. Please address all correspondence to: ICSID, 1818 H Street, N.W., Washington, D.C. 20433.