

I C S I D

1985 ANNUAL REPORT



**International Centre for
Settlement of Investment Disputes**

I C S I D

1985 ANNUAL REPORT



**International Centre for
Settlement of Investment Disputes**

Table of Contents

Page

- 3** Letter of Transmittal
- 4** Introduction by the Secretary-General
- 6** Membership
- 6** Disputes before the Centre
- 8** Panels of Conciliators and of Arbitrators
- 9** Publications
- 12** Promotional Activities
- 13** Relations with Member States
- 14** Eighteenth Annual Meeting of the
Administrative Council
- 15** Finance

Annexes

- 16** 1 List of Contracting States and Signatories
of the Convention
 - 18** 2. Resolutions of the Administrative Council
 - 19** 3. Report and Financial Statements
 - 22** 4. Publications of ICSID
-

International Centre for Settlement of Investment Disputes

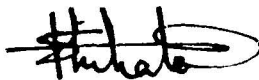
September 6, 1985

Dear Mr Chairman:

Pursuant to Administrative and Financial Regulation 5(4), I hereby submit to the Administrative Council for its approval the Annual Report on the operation of the International Centre for Settlement of Investment Disputes required by Article 6(1)(g) of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. This Annual Report covers the fiscal year July 1, 1984 to June 30, 1985.

The report includes the audited financial statements of the Centre, presented pursuant to Administrative and Financial Regulation 19

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Ibrahim F.I. Shihata', enclosed within a hand-drawn oval.

Ibrahim F.I. Shihata
Secretary-General

Mr A.W Clausen
Chairman
Administrative Council
International Centre for Settlement of Investment Disputes

Introduction by the Secretary-General

In presenting this annual report, I would like to review briefly some of the important developments which have occurred during the last fiscal year of ICSID

1 ICSID Membership has been enhanced by the accession of one new member, Portugal. This has brought the membership of ICSID to 87 States.

2. Two new cases were submitted to ICSID arbitration. In addition, one annulment proceeding instituted in February 1984, has been closed by a decision rendered on May 3, 1985, by the *ad hoc* Committee appointed for the purpose by the Chairman of the Administrative Council. That decision annuls the award. After the decision, the dispute was resubmitted to ICSID arbitration. Another annulment proceeding was initiated on March 18, 1985. Meanwhile, one request to institute new arbitration proceedings was not registered as it was found to be "manifestly outside the jurisdiction of the Centre"

To date, nine arbitration, conciliation and annulment proceedings are pending out of a total of 20 disputes submitted to the Centre. Only five arbitration proceedings have led to an award. In eight arbitration/conciliation cases, the proceedings were either discontinued or amicably settled. This

high proportion of settlements is encouraging. It shows the real contribution that ICSID can make in restoring the climate of mutual confidence between States and investors, which is the paramount objective of ICSID.

With a view to expediting the proceedings and promoting the amicable settlement of investment disputes, the Arbitration Rules of ICSID have been amended to provide a new procedure in the form of a pre-hearing conference that may be called by the Secretary-General or the arbitral tribunal, or be requested by the parties. This amendment was accompanied by other revisions to ICSID's Regulations and Rules which were designed to clarify or simplify certain provisions and enhance the flexibility of others.

Another encouraging factor is the fact that, unlike in the case of well-known international proceedings in which the State involved elected to default, the history of ICSID shows a high degree of State participation in the proceedings. Although a State has acted as claimant in only one case so far, the States against which proceedings have been instituted have often presented their own grievances in the form of counterclaims that insured them a full day in court. This consideration is of direct interest to the ef-

fectiveness of ICSID awards. To the extent that counterclaims have been successful, which has been the case in certain instances, the problem of enforcement of ICSID awards has simply disappeared. In the other instances, in which awards were rendered against a State, the State's participation in the proceedings has certainly been a contributing factor to its willingness to comply with the award or to reach an ultimate settlement with the claimant.

3. New initiatives have been taken by the Secretariat to promote ICSID and its facilities. These have included the holding of seminars and participation in a number of conferences, as well as the issuance of new ICSID brochures and the publication of a number of articles in law reviews and professional journals.

Because ICSID is not merely a dispute settlement mechanism and aims at improving the international investment climate, I have decided to launch a new publication entitled *ICSID Review - Foreign Investment Law Journal*. This Review will bring within the scope of a single specialized publication information concerning the legal aspects of foreign investments, including treaty, statutory and judicial developments, as well as

analysis of current contractual trends. It will also give continuing information on issues involving ICSID. Work has already started for the preparation of the first issue of the Review, which is scheduled to appear in early 1986.

4. Preparations are under way for a detailed analysis by the Secretariat of bilateral investment treaties entered into by ICSID's members. The results of such analysis, which should be of universal interest, could be of use to member States in negotiating investment treaties.

5. At a time when the volume of foreign investment in developing countries has significantly declined, I believe that ICSID should renew its efforts to secure a stable and increasing flow of resources to developing countries under reasonable conditions.

The steps which I have outlined above and which are more fully described in this report should help ICSID in achieving its objective.

Ibrahim F.I. Shihata
Secretary-General

Membership

During the past fiscal year Portugal deposited its instrument of ratification on July 2, 1984, bringing the number of Contracting States to 87. The Convention was signed by Haiti on January 30, 1985, bringing the total of Signatory States to 91. A complete list of Contracting States and Signatories of the Convention appears in Annex 1.

In order to continue his efforts to broaden the scope of ICSID's membership, the Secretary-General visited Thailand and the People's Republic of China and held in both countries discussions with senior officials for this purpose.

Contacts have also been made by the Secretariat with senior officials of Canada. The matter is presently under consideration by the authorities concerned.

Disputes before the Centre

New Cases

In the course of the fiscal year, the Secretary-General has registered two new arbitration requests:

- *S.P.P. (Middle East) Limited v the Arab Republic of Egypt (Case ARB/84/3)*, registered on August 28, 1984.
- *Maritime International Nominees Establishment (MINE) v Government of the Republic of Guinea (Case ARB/84/4)*, registered on September 18, 1984.

During the year, an arbitration request was submitted by Asian Express International (S) PTE Ltd. v Greater Colombo Economic Commission. The Secretary-General found that the dispute was "manifestly outside the jurisdiction of the Centre". Accordingly, the Secretary-General notified the parties of his refusal to register the request.

Status of Pending Proceedings

[A] Arbitration Proceedings

- (1) *Amco Asia et al v the Republic of Indonesia (Case ARB/81/1)*

November 28, 1984—The Tribunal renders its Award on the Merits.

March 18, 1985—The Secretary-General registers an Application for annulment of the Award, submitted by Respondent (the Republic of Indonesia).

April 22, 1985—The Secretary-General notifies the parties that the *ad hoc* Committee provided for under Article 52(3) of the Convention has been constituted. The Committee, appointed by the Chairman of the Administrative Council, consists of Mr Florentino Feliciano (Filipino), Prof. Andrea Giardina (Italian), and Prof. Dr Ignaz Seidl-Hohenveldern (Austrian).

May 17, 1985—The *ad hoc* committee meets in Frankfurt with the parties for a preliminary procedural consultation.

- (2) *Klöckner Industrie Anlagen GmbH et al v the United Republic of Cameroon and Société Camerounaise des Engrais (SO-CAME) S.A. (Case ARB/81/2) - Annulment*

May 3, 1985—The *ad hoc* Committee's decision, which annuls the arbitral award dated October 21, 1983, is rendered.

Subsequently, the dispute is resubmitted to ICSID arbitration.

- (3) *Société Ouest Africaine des Bétons Industriels (SOABI) v the State of Senegal (Case ARB/82/1)*

July 17–18, 1984—The Tribunal holds a session in Paris.

November 27, 1984—Respondent files its Counter-Memorial.

January 3, 1985—Claimant files its Reply

February 6, 1985—Respondent files its Rejoinder

May 24, 1985—Claimant notifies the Secretariat of its appointment of Professor Dr J.C. Schultz (Netherlands) as arbitrator, in replacement of Baron Jean van Houtte (Belgium) who resigned.

- (4) *Swiss Aluminium Limited (ALUSUISSE) S.A. and Icelandic Aluminium Company Limited (ISAL) v the Government of Iceland (Case ARB/83/1)*

March 5, 1985—The Centre receives a joint request from the parties, dated February 10, 1985, to take note of the discontinuance of the proceeding pursuant to Arbitration Rule 43(1).

March 6, 1985—The Secretary-General renders an Order noting the discontinuance of the proceeding under Arbitration Rule 43(1).

- (5) *The Liberian Eastern Timber Corporation (LETCO) v the Government of the*

Republic of Liberia (Case ARB/83/2)

October 24, 1984—The Tribunal renders an interim Award on Jurisdiction, upholding its competence.

March 25, 1985—The Tribunal holds a session in London.

- (6) *Atlantic Triton Limited v the Republic of Guinea (Case ARB/84/1)*

August 1, 1984—The Secretary-General notifies the parties that the Tribunal, consisting of Prof. Pieter Sanders (Netherlands), appointed by both parties, Dr A.J. van den Berg (Netherlands), appointed by Respondent, and Mr Jean-François Prat (French), appointed by Claimant, has been constituted.

August 23, 1984—The Tribunal meets in Paris with the parties for a preliminary procedural consultation.

November 15, 1984—The Tribunal meets in The Netherlands.

November 30, 1984—The Tribunal holds a session in Paris with the parties for hearings on provisional measures.

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

August 15, 1984—The Secretary-General notifies the parties that the Tribunal, consisting of Dr Eduardo Jiménez de Aréchaga (Uruguayan), appointed by Respondent, Mr Ian E. McPherson, Q.C. (Canadian), appointed by Claimant, and Dr Kenneth Rattray (Jamaican), recommended by the two arbitrators and agreed to by the parties, has been constituted.

September 24, 1984—The Tribunal meets in Washington, D.C. with the parties for a preliminary procedural consultation.

October 22, 1984—Claimant files its Memorial.

Panels of Conciliators and of Arbitrators

January 18, 1985—Respondent files its Counter-Memorial.

April 15, 1985—Claimant files its Reply

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

August 28, 1984—The Secretary-General registers a request for the institution of arbitration proceedings.

December 18, 1984—The Secretary-General notifies the parties that the Tribunal, consisting of Mr Mohamed Amin Elabassy El Mahdi (Egyptian), appointed by Respondent, Mr Robert F Pietrowski, Jr (US), appointed by Claimant, and Dr Eduardo Jiménez de Aréchaga (Uruguayan), appointed by both parties, has been constituted.

February 8, 1985—The Tribunal meets in The Hague with the parties for a preliminary procedural consultation.

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

September 18, 1984—The Secretary-General registers a request for the institution of arbitration proceedings.

June 17, 1985—The Secretary-General notifies the parties that the Tribunal, consisting of Mr Jack Berg (U.S.), appointed by Claimant, Prof. David J Sharpe (U.S.), appointed by Respondent, and Mr Donald E. Zubrod (U.S.), appointed by both parties, has been constituted.

[B] Conciliation Proceedings

Tesoro Petroleum Corporation v the Government of Trinidad and Tobago (Case CONC/83/1)

July 23, 1984—The Conciliator holds a session in Washington, D C.

February 7, 1985—The Conciliator files his Report.

Pursuant to the Convention, the Centre maintains a Panel of Conciliators and a Panel of Arbitrators. Each Contracting State may designate to each Panel four persons who may but need not be its nationals.

As provided in the Convention, such persons "shall be of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment"

In the course of the fiscal year designations have been received by the ICSID Secretariat from the following Contracting States:

● **Bangladesh:**

Panels of Conciliators and of Arbitrators:

Designations effective as of January 28, 1985.

Mr Justice Maksum-ul Hakim, Mr Justice Ruhul Islam, Mr Justice T.H. Khan and Mr A.R. Yusuf.

● **Belgium:**

Panel of Conciliators:

Designation effective as of September 25, 1984.

Prof. R. Rogiers (re-appointment).

Designations effective April 23, 1985.

Mr A. Dequae (re-appointment), Comte J -Ch. Snoy et d'Oppuers, Mr R. Vandeputte.

Panel of Arbitrators:

Designations effective as of September 25, 1984.

Mr Robert P Henrion (re-appointment), and Baron J Van Houtte (re-appointment).

Designations effective as of February 5, 1985:

Baron C. De Strycker, and Mr Franz De Voghel (re-appointment).

Publications

- **Philippines:**

Panels of Conciliators and of Arbitrators:

Designation effective as of March 20, 1985:

Mr Florentino Feliciano (re-appointment).

Designations effective as of April 9, 1985:

Ms. Lilia Bautista (re-appointment), Mr Efren I. Plana (re-appointment), and Mr Gonzalo Santos.

- **Romania:**

Designations effective as of August 6, 1984.

Panel of Conciliators:

Mr Adrian Duta, Mr Nicolae Duta (re-appointment), Mr Tudor Gradea, and Mrs. Doina Protopopescu.

Panel of Arbitrators:

Mr Dimitru Andrei, Mr Ioan Mandle, Mr Ilariu Mrejeru, and Mr Teofil Pop (formerly on the Panel of Conciliators).

New Brochure

The Secretariat has published a new brochure (ICSID/16) entitled *ICSID Cases: 1972-1984*, which gives information, in regard to each case, on the parties to the dispute, the nature of the dispute, its outcome (award, discontinuance or settlement) and the publications in which the case was reported or discussed.

The same brochure also contains data regarding the constitution of ICSID arbitral tribunals, conciliation commissions and *ad hoc* Committees, their composition and the place of hearings.

Arbitral Awards and Decisions

1 During the year, excerpts from the award dated October 21, 1983 in the case of *Klöckner Industrie Anlagen, GmbH et al. v United Republic of Cameroon et al.* was published by the parties in 1 *Journal of International Arbitration*, 145 and 331 (1984) (English translation) and in *Journal du Droit International* 1984, 409 (French original).

2. For the first time in the history of ICSID, the Secretariat has been authorized by both parties to an ICSID proceeding to publish excerpts from a decision on jurisdiction made by an arbitral tribunal. The decision is published anonymously in *News from ICSID*, Vol. 2, No. 2 (Summer 1985) pp. 3-6. It deals with the issue of the nationality of a corporation incorporated (or having its *siège social*) in the host Contracting State, but under "foreign control"

National Court's Decision

The decision of the Court of Appeal of Rennes (France) of October 26, 1984, in *République Populaire Révolutionnaire de Guinée et al. v Société Atlantic Triton*, appeared in 24 *International Legal Materials* 340 (1985). The decision is also reproduced

in *News from ICSID*, Vol. 2, No. 2 (Summer 1985), pp. 7-9. That decision holds that when the parties have consented to ICSID arbitration, domestic courts in Contracting States must decline to entertain claims brought before them (in this case a request for an order of attachment of certain assets of the Republic of Guinea) by one of the parties since, under Article 26 of the ICSID Convention, consent to ICSID arbitration is deemed to exclude any other remedy. In the context of ICSID, the parties, if they wish to retain the option of seeking judicial assistance in respect of provisional measures, must do so by way of express agreement. This is made clear by the provisions of the Revised Arbitration Rules (1984), Rule 39(5), and of ICSID Model Clauses (Doc. ICSID/5, Rev 1, para. 21 and Clause XVI).

News from ICSID

During the fiscal year, two issues of *News from ICSID* were published, i.e. Vol. 1, No. 2 (Summer 1984) and Vol. 2, No. 1 (Winter 1985). The major features of these issues include: ICSID and Latin America, Sao Paulo Seminar, Legal Rules Applied by ICSID Arbitral Tribunals, ICSID and Multipartite Arbitration, ICSID Clauses: Some Drafting Problems, ICSID in 1984, Revised Regulations and Rules, Continuation of the Additional Facility, The World Bank Hosts a Second ICSID, AAA, ICC Symposium, and ICSID and Bilateral Investment Treaties.

A recent issue (Vol. 2, No. 2 (Summer 1985)) includes the following items: ICSID and the Promotion of Better Investment Climates, Legal Rules Applied by ICSID Tribunals, ICSID and the Courts, The Screening Power of the ICSID Secretary-General, and current information on ICSID

ICSID Review - Foreign Investment Law Journal

In order to further promote the role of ICSID not only as a dispute settlement facility but also as a forum for the improvement of the international investment climate, the ICSID Secretariat has decided to launch a new publication entitled *ICSID Review - Foreign Investment Law Journal*.

The Journal is intended to meet the need for a publication which collects under one cover material on the law and practice relating to foreign investments. It will provide a forum for the examination by leading experts of current topics in such areas as domestic legislation and bilateral investment treaties, contractual trends regarding the negotiation and performance of investment agreements in the broadest sense, as well as the resolution of investment disputes.

In addition to articles, the Journal will contain comments on recent developments, notes on cases, including decisions of non-ICSID fora, documents such as investment laws and treaties, and book reviews.

The Journal will primarily be published in English, although material in French will also be considered for inclusion. It will initially appear on a bi-annual basis, and eventually become a quarterly. The first issue is scheduled for publication in January 1986.

News from ICSID has been well received by the public. It is hoped that the high standards that the new Journal is intended to achieve will contribute further to the dissemination of information relating to investments for the benefit of member countries and other interested parties.

The Journal's Advisory Board comprises Samuel K.B. Asante; Aron Broches; Jose Camacho; Ahmed S. El Koshery; Heribert Golsong; Kamal Hossain; Nicholas deB. Katzenbach; Pierre Lalive; George Nicoletopoulos; Seymour Rubin; Ignaz Seidl-Hohenveldern; Arthur von Mehren; and Prosper Weil.

The members of the Editorial Committee of the Journal are Georges R. Delaume (Chairman); Elizabeth O. Adu; Saad El-Fishawy; Louis Forget; Raj Krishna; Natalie Lichtenstein; Marta Molares; Antonio R. Parra; and Boris Velić.

Bilateral Investment Treaties

In an increasing number of instances, bilateral treaties relating to the promotion and the protection of investments (BITs) make reference to ICSID facilities for the settlement of investment disputes between one Party and Nationals of the other Party.

In this connection, it is interesting to note that out of 210 BITs collected by the Secretariat and published by ICSID in a collection entitled *Investment Treaties*, 100 treaties refer to ICSID. Another interesting feature is that 87 of these treaties concern relations between developing and developed countries, and 11 involve relations among developing nations. In this last respect, it should be recalled also that the Model Bilateral Agreements on Promotion and Protection of Investments prepared by the Asian-African Legal Consultative Committee (23 *International Legal Materials* 237 (1984)) also contemplate that investment disputes might be submitted to arbitration under ICSID.

The major features of investment treaties referring to ICSID have been analyzed in *News from ICSID*, Vol. 2, No. 1 (Winter 1985), pp. 12–20.

The Secretariat has undertaken a systematic classification of the material included in Investment Treaties. Some member countries have requested ICSID to proceed with a comparative analysis of this material and to publish the results in the form of a handbook on investment treaties. Preparations for such a handbook, which would be used by member countries in negotiating treaties, began during the fiscal year

Other Publication Activities

The Secretariat has contributed a number of articles to law reviews and professional publications, and several of the papers submitted by the Secretariat on the occasion of seminars and conferences are also to be published in symposia. Reference to these articles and also to publications concerning ICSID contributed by other writers appears in *News from ICSID* and in the bibliography prepared by the Secretariat.

Promotional Activities

Washington, D.C. Conference

On November 2, 1984, a joint conference on Arbitration Laws and International Trade and Investments was held at the headquarters of The World Bank in Washington, D.C. Its purpose was to take into account recent treaty, statutory and judicial developments, which contribute to increasing the effectiveness of international arbitration and to discuss, in the light of experience, new approaches towards drafting arbitration agreements, selecting the appropriate locale to arbitrate, choosing arbitrators and presenting evidence. The conference was the second in a series of conferences on the subject of International Arbitration initiated in November 1983, under the joint auspices of ICSID, the American Arbitration Association (AAA) and the International Chamber of Commerce (ICC). A summary of the conference activities appears in *News from ICSID*, Vol. 2, No. 1 (Winter 1985), pp. 7-8.

The conference was attended by more than 100 participants from the legal profession, business community and governmental and international agencies.

In view of the interest shown by the participants and of their active contribution to the discussion, the three sponsoring institutions have reached the conclusion that this type of international gathering should become a permanent feature of their promotional activities. They have agreed that a third conference should be held on October 24, 1985. In order to reach other interested parties, that conference will be held in Paris, France, and hosted by the ICC.

Rio de Janeiro Congress on International Arbitration

Another conference in which the Secretariat has been invited to participate is the Rio de Janeiro Congress on International Arbitration, scheduled for July 30-31, 1985. The Secretariat's papers for this congress

include: "The depoliticization of investment disputes: the role of ICSID and MIGA", by the Secretary-General, and "State contracts and transnational arbitration", by Georges R. Delaume, Senior Legal Adviser

Other Conferences

The Secretariat participated in: (i) the XIII Annual Conference of the Canadian Council on International Law (Ottawa, October 18-20, 1984) and an International Trade Law Seminar (Ottawa, October 22, 1984); (ii) the inaugural conference of the School of International Arbitration (London, March 25-27, 1985); (iii) the Annual Meeting of the American Society of International Law (New York, April 27, 1985); (iv) a seminar on "International Arbitration Rules" organized by the Chartered Institute of Arbitrators (London, May 17, 1985); (v) a colloquium organized by the Centre d'Etudes et de Recherches sur la Coopération Internationale (Nice, May 30-June 1, 1985).

Relations with Member States

Cooperation with the International Development Law Institute

At the request of the International Development Law Institute (IDLI), whose headquarters are in Rome, Italy, ICSID agreed to assist IDLI in the organization of a two-week course on the subject of resolving international contract disputes. The course was conducted in French in February 1985. The instructors were leading authorities in the field of transnational contracts, arbitration and sovereign immunity. The emphasis was placed on the practical aspects of each topic as they may be encountered by government legal advisers. The course was attended by 26 senior legal advisers from Burundi, Cameroon, Chad, Congo, Egypt, Gabon, Ivory Coast, Madagascar, Morocco, Niger, Senegal, Togo, Tunisia and Zaire.

The 1984 Annual Report mentioned that in March 1984, the Secretary-General had addressed a series of letters to Member States. The purpose of said letters was to request from each Member State information on the use it makes of ICSID, either in particular investment provisions, or in national legislation or bilateral agreements relating to investment promotion and protection.

Insofar as bilateral agreements are concerned, a number of Member States have cooperated in supplying the Secretariat with the text of such agreements, which has been incorporated in ICSID's collection of *Investment Treaties*.

The Secretariat has also been supplied with new investment legislation.

However, the response of Member States regarding the use of ICSID in investment provisions has been disappointing. The Secretary-General believes that it is in the interest of Member States to communicate this type of information since it would indicate the frequency of ICSID clauses and the type of investments to which they relate. The Secretary-General, therefore, urges Member States to complete the Secretariat's documentation regarding ICSID clauses.

Eighteenth Annual Meeting of the Administrative Council

The Eighteenth Annual Meeting of the Administrative Council of the International Centre for Settlement of Investment Disputes (ICSID) took place on September 26, 1984, in Washington, D C.

On this occasion, the Administrative Council agreed unanimously to continue the Additional Facility administered by ICSID and to revise the ICSID Regulations and Rules.

Continuation of the Additional Facility

Under the ICSID Convention, the ICSID Secretariat administers proceedings concerning investment disputes between Contracting States and nationals of other Contracting States.

In 1978, the Administrative Council approved the creation of an Additional Facility intended to enable the Secretariat to administer proceedings relating to disputes not covered by the Convention because the State party to the dispute, or whose national is a party to the dispute, is not a Contracting State or because the dispute is not an investment dispute, or the type of proceeding involved concerns fact-finding only.

In approving the Additional Facility, the Administrative Council decided to review its operation after a five-year period. In 1983, it was decided to postpone that review for an additional year. Conscious of the fact that reference to the Additional Facility as a means of dispute settlement now appears in a number of bilateral investment treaties concluded by certain of its member governments, the Administrative Council has approved the proposal of the Secretary-General to continue indefinitely the Additional Facility, thereby confirming that the Secretariat can be of assistance to parties interested in using such additional services.

Revision of ICSID Regulations and Rules

Pursuant to the ICSID Convention, the Administrative Council adopted in 1967 a set of Regulations and Rules intended to facilitate the implementation of the Convention. Except for minor amendments, these documents had remained unchanged.

In the light of ICSID's experience and of a significantly increasing number of proceedings administered by it, it was felt that the time had come to review the Regulations and Rules. The purpose of the revision was not to make dramatic changes in these documents. It was rather to simplify or clarify the language of certain provisions and to introduce greater flexibility into the administration of proceedings.

The major changes are the following:

- (a) A new procedure is now offered in the form of a "pre-hearing conference", which may be called by the Secretary-General or the arbitral tribunal, or be requested by the parties, in order to expedite the proceedings by identifying promptly undisputed facts and limiting the proceedings to the real issues in dispute, and to facilitate early amicable settlements. This new procedure should help in achieving ICSID's paramount objective, which is to promote an atmosphere of mutual confidence between Contracting States and investors and an early settlement of the disputes submitted to it.
- (b) A new provision has been introduced to further clarify that consent to ICSID is exclusive of any other remedy (including provisional or conservatory measures sought from municipal courts) and that the only case in which the parties may request from a judicial or other authority provisional measures is that in which the parties have so stipulated in the agreement recording their consent.
- (c) The original Regulations provided that each party should contribute by way of ad-

Finance

vances to the expenditures likely to be incurred from time to time in the course of the proceedings. These provisions applied also to annulment proceedings. In this last respect, the Regulations have been amended to provide that if a party seeks annulment of an award, it will be solely responsible for making advance payments subject to the ultimate apportionment of costs by the *ad hoc* Committee constituted to review the request for annulment.

(d) The original Regulations and Rules required the presence at all hearings of a Secretary appointed by ICSID. This requirement proved too rigid in its application in all cases. There are instances in which the parties wish to dispense with the presence of the Secretary to save costs and prefer to make their own arrangements. Consequently, this requirement has been deleted.

(e) The determination of fees for conciliators/arbitrators, can now be made from time to time by the Secretary-General, with the approval of the Chairman, to take into account monetary fluctuations and changes in the cost of living without formal amendment of the Regulations.

The text of the Convention and the revised text of the Regulations and Rules have been printed in a single brochure entitled *ICSID Basic Documents*.

Pursuant to the Convention, the Rules applicable to any particular conciliation/arbitration proceeding are those in effect on the date on which the parties consent to ICSID conciliation/arbitration.

The revised Rules, therefore, apply only prospectively to consents given after September 26, 1984. However, the parties to a dispute submitted to ICSID pursuant to an earlier consent can always agree to the application of the new Rules.

The situation is different in regard to the Administrative and Financial Regulations. The revised Regulations have come into force immediately upon adoption by the Council on September 26, 1984.

The Financial Statements of ICSID for the fiscal year 1985 are set forth in Annex 3.

The expenditures of ICSID were, again, entirely covered by The World Bank pursuant to the Memorandum of Administrative Arrangements concluded between The World Bank and ICSID in February 1967, and by income from the sale of publications.

It was, therefore, not necessary to assess any excess expenditures to Contracting States pursuant to Article 17 of the Convention.

ICSID expenditures relating to pending conciliation and arbitration proceedings are borne by the parties in accordance with ICSID's Administrative and Financial Regulations.

Annex 1

List of Contracting States and Signatories of the Convention

(As of June 30, 1985)

The 91 States listed below have signed the Convention on the dates indicated. The names of the 87 States that have deposited instruments of ratification are in bold face, and the dates of such deposit and of the attainment of the status of Contracting State by the entry into force of the Convention for each of them are also indicated.¹

State	Signature	Deposit of Ratification	Entry into Force of Convention
Afghanistan	Sep. 30, 1966	Jun. 25, 1968	Jul. 25, 1968
Australia	Mar. 24, 1975		
Austria	May 17, 1966	May 25, 1971	Jun. 24, 1971
Bangladesh	Nov 20, 1979	Mar. 27, 1980	Apr. 26, 1980
Barbados	May 13, 1981	Nov 1, 1983	Dec. 1, 1983
Belgium	Dec. 15, 1965	Aug. 27, 1970	Sep. 26, 1970
Benin, People's Republic of	Sep. 10, 1965	Sept. 6, 1966	Oct. 14, 1966
Botswana	Jan. 15, 1970	Jan. 15, 1970	Feb. 14, 1970
Burkina Faso	Sep. 16, 1965	Aug. 29, 1966	Oct. 14, 1966
Burundi	Feb. 17, 1967	Nov 5, 1969	Dec. 5, 1969
Cameroon	Sep. 23, 1965	Jan. 3, 1967	Feb. 2, 1967
Central African Republic	Aug. 26, 1965	Feb. 23, 1966	Oct. 14, 1966
Chad	May 12, 1966	Aug. 29, 1966	Oct. 14, 1966
Comoros	Sep. 26, 1978	Nov 7, 1978	Dec. 7, 1978
Congo, People's Republic of the	Dec. 27, 1965	Jun. 23, 1966	Oct. 14, 1966
Costa Rica	Sep. 29, 1981		
Cyprus	Mar. 9, 1966	Nov 25, 1966	Dec. 25, 1966
Denmark	Oct. 11, 1965	Apr. 24, 1968	May 24, 1968 ²
Egypt, Arab Republic of	Feb. 11, 1972	May 3, 1972	Jun. 2, 1972
El Salvador	Jun. 9, 1982	Mar. 6, 1984	Apr. 5, 1984
Ethiopia	Sep. 21, 1965		
Fiji	Jul. 1, 1977	Aug. 11, 1977	Sep. 10, 1977
Finland	Jul. 14, 1967	Jan. 9, 1969	Feb. 8, 1969
France	Dec. 22, 1965	Aug. 21, 1967	Sep. 20, 1967
Gabon	Sep. 21, 1965	Apr. 4, 1966	Oct. 14, 1966
Gambia, The	Oct. 1, 1974	Dec. 27, 1974	Jan. 26, 1975
Germany, Federal Republic of	Jan. 27, 1966	Apr. 18, 1969	May 18, 1969 ³
Ghana	Nov 26, 1965	Jul. 13, 1966	Oct. 14, 1966
Greece	Mar. 16, 1966	Apr. 21, 1969	May 21, 1969
Guinea	Aug. 27, 1968	Nov 4, 1968	Dec. 4, 1968
Guyana	Jul. 3, 1969	Jul. 11, 1969	Aug. 10, 1969
Haiti	Jan. 30, 1985		
Iceland	Jul. 25, 1966	Jul. 25, 1966	Oct. 14, 1966
Indonesia	Feb. 16, 1968	Sep. 28, 1968	Oct. 28, 1968
Ireland	Aug. 30, 1966	Apr. 7, 1981	May 7, 1981
Israel	Jun. 16, 1980	Jun. 22, 1983	Jul. 22, 1983
Italy	Nov 18, 1965	Mar. 29, 1971	Apr. 28, 1971
Ivory Coast	Jun. 30, 1965	Feb. 16, 1966	Oct. 14, 1966
Jamaica	Jun. 23, 1965	Sep. 9, 1966	Oct. 14, 1966
Japan	Sep. 23, 1965	Aug. 17, 1967	Sep. 16, 1967

¹The Convention was signed on behalf of the Republic of China on January 13, 1966, and ratified on December 10, 1968. At its Fourteenth Annual Meeting on October 2, 1980, the Administrative Council considered a communication received from the People's Republic of China (PRC), decided that the Republic of China be removed from the list of Contracting States and noted that, pending study by the Government of the PRC of the possibility of becoming a party to the Convention, China is not a Contracting State.

²Denmark excluded, by a notification received on May 15, 1968, the Faroe Islands; by a notification received on October 30, 1968, Denmark extended the application of the Convention to the Faroe Islands as of January 1, 1969.

³Germany declared, on depositing its instrument of ratification, that the Convention would also apply to the Land Berlin.

State	Signature	Deposit of Ratification	Entry into Force of Convention
Jordan	Jul. 14, 1972	Oct. 30, 1972	Nov. 29, 1972
Kenya	May 24, 1966	Jan. 3, 1967	Feb. 2, 1967
Korea, Republic of	Apr. 18, 1966	Feb. 21, 1967	Mar. 23, 1967
Kuwait	Feb. 9, 1978	Feb. 2, 1979	Mar. 4, 1979
Lesotho	Sep. 19, 1968	Jul. 8, 1969	Aug. 7, 1969
Liberia	Sep. 3, 1965	Jun. 16, 1970	Jul. 16, 1970
Luxembourg	Sep. 28, 1965	Jul. 30, 1970	Aug. 29, 1970
Madagascar	Jun. 1, 1966	Sep. 6, 1966	Oct. 14, 1966
Malawi	Jun. 9, 1966	Aug. 23, 1966	Oct. 14, 1966
Malaysia	Oct. 22, 1965	Aug. 8, 1966	Oct. 14, 1966
Mali	Apr. 9, 1976	Jan. 3, 1978	Feb. 2, 1978
Mauritania	Jul. 30, 1965	Jan. 11, 1966	Oct. 14, 1966
Mauritius	Jun. 2, 1969	Jun. 2, 1969	Jul. 2, 1969 ⁴
Morocco	Oct. 11, 1965	May 11, 1967	Jun. 10, 1967
Nepal	Sep. 28, 1965	Jan. 7, 1969	Feb. 6, 1969
Netherlands	May 25, 1966	Sep. 14, 1966	Oct. 14, 1966 ⁵
New Zealand	Sep. 2, 1970	Apr. 2, 1980	May 2, 1980 ⁶
Niger	Aug. 23, 1965	Nov. 14, 1966	Dec. 14, 1966
Nigeria	Jul. 13, 1965	Aug. 23, 1965	Oct. 14, 1966
Norway	Jun. 24, 1966	Aug. 16, 1967	Sep. 15, 1967
Pakistan	Jul. 6, 1965	Sep. 15, 1966	Oct. 15, 1966
Papua New Guinea	Oct. 20, 1978	Oct. 20, 1978	Nov. 19, 1978
Paraguay	Jul. 27, 1981	Jan. 7, 1983	Feb. 6, 1983
Philippines	Sep. 26, 1978	Nov. 17, 1978	Dec. 17, 1978
Portugal	Aug. 4, 1983	Jul. 2, 1984	Aug. 1, 1984
Romania	Sep. 6, 1974	Sep. 12, 1975	Oct. 12, 1975
Rwanda	Apr. 21, 1978	Oct. 15, 1979	Nov. 14, 1979
Saudi Arabia	Sep. 28, 1979	May 8, 1980	Jun. 7, 1980
Senegal	Sep. 26, 1966	Apr. 21, 1967	May 21, 1967
Seychelles	Feb. 16, 1978	Mar. 20, 1978	Apr. 19, 1978
Sierra Leone	Sep. 27, 1965	Aug. 2, 1966	Oct. 14, 1966
Singapore	Feb. 2, 1968	Oct. 14, 1968	Nov. 13, 1968
Solomon Islands	Nov. 12, 1979	Sep. 8, 1981	Oct. 8, 1981
Somalia	Sep. 27, 1965	Feb. 29, 1968	Mar. 30, 1968
Sri Lanka	Aug. 30, 1967	Oct. 12, 1967	Nov. 11, 1967
St. Lucia	Jun. 4, 1984	Jun. 4, 1984	Jul. 4, 1984 ⁷
Sudan	Mar. 15, 1967	Apr. 9, 1973	May 9, 1973
Swaziland	Nov. 3, 1970	Jun. 14, 1971	Jul. 14, 1971 ⁸
Sweden	Sep. 25, 1965	Dec. 29, 1966	Jan. 28, 1967
Switzerland	Sep. 22, 1967	May 15, 1968	Jun. 14, 1968
Togo	Jan. 24, 1966	Aug. 11, 1967	Sep. 10, 1967
Trinidad and Tobago	Oct. 5, 1966	Jan. 3, 1967	Feb. 2, 1967
Tunisia	May 5, 1965	Jun. 22, 1966	Oct. 14, 1966
Uganda	Jun. 7, 1966	Jun. 7, 1966	Oct. 14, 1966
United Arab Emirates	Dec. 23, 1981	Dec. 23, 1981	Jan. 22, 1982
United Kingdom of Great Britain and Northern Ireland	May 26, 1965	Dec. 19, 1966	Jan. 18, 1967 ⁹
United States of America	Aug. 27, 1965	Jun. 10, 1966	Oct. 14, 1966
Western Samoa	Feb. 3, 1978	Apr. 25, 1978	May 25, 1978
Yugoslavia	Mar. 21, 1967	Mar. 21, 1967	Apr. 20, 1967
Zaire	Oct. 29, 1968	Apr. 29, 1970	May 29, 1970
Zambia	Jun. 17, 1970	Jun. 17, 1970	Jul. 17, 1970

⁴Until Mauritius attained its independence on March 12, 1968, it was covered by the ratification of the United Kingdom.

⁵On depositing its instrument of ratification, the Netherlands restricted the application of the Convention to the Kingdom in Europe; by a notification received on May 22, 1970, the Netherlands withdrew that restriction and thus extended the application of the Convention to Suriname and the Netherlands Antilles; Suriname having attained independence on November 25, 1975, the Convention ceased to be applicable to Suriname as of that date.

⁶On depositing its instrument of ratification, New Zealand, pursuant to Article 70 of the Convention, excluded from its coverage the Cook Islands, Niue and Tokelau.

⁷Until St. Lucia attained its independence on February 22, 1979, it was covered by the ratification of the United Kingdom.

⁸Until Swaziland attained its independence on September 6, 1968, it was covered by the ratification of the United Kingdom.

⁹The United Kingdom, pursuant to Article 70 of the Convention, excluded from its coverage the following territories for whose international relations it is responsible: Jersey, Isle of Man, British Indian Ocean Territory, Pitcairn Islands, British Antarctic Territory, Sovereign Base Areas of Cyprus. By notifications received on June 27, 1979, and November 17, 1983, respectively, the United Kingdom extended the application of the Convention to Jersey as of July 1, 1979, and to the Isle of Man as of November 1, 1983.

Annex 2**Resolutions of the Administrative Council**

The following resolutions were adopted by the Administrative Council at its Eighteenth Annual Meeting on September 26, 1984.

AC(18)/RES/56 - Approval of the Annual Report

The Administrative Council

RESOLVES

To approve the 1984 Annual Report on the Operation of the Centre as set forth in the attachment to Document AC/84/5.

AC(18)/RES/57 - Revision of the Regulations and Rules of the Centre

The Administrative Council

CONSIDERING

Article 6(1)(a), (b) and (c) of the Convention,

CONSIDERING

the Note of the Secretary-General set forth in the attachment to Document AC/84/3, dated July 23, 1984, and the amendments thereto set forth in the attachment to Document AC/84/6, dated August 24, 1984,

RESOLVES

To adopt, the revised Regulations and Rules of the Centre set forth in the attachment to Document AC/84/7, dated September 7, 1984.

AC(18)/RES/58 - Additional Facility

The Administrative Council

CONSIDERING

the Resolution of the Administrative Council (AC(12)/RES/38) dated September 27, 1978, creating the Additional Facility, which provided that the Administrative Council would review the operation of the additional Facility after five years,

the Resolution of the Administrative Council (AC(17)/RES/54) dated September 29, 1983, which provided that the decision whether to continue the Additional Facility or to terminate it for the future should be taken at the 1984 Meeting of the Administrative Council,

the Report of the Secretary-General on the operation of the Additional Facility as set forth in the attachment to Document AC/84/2, dated July 23, 1984,

RESOLVES

that the Additional Facility be continued.

AC(18)/RES/59 - Adoption of Budget for Fiscal Year 1985

The Administrative Council

RESOLVES

To adopt, for the period July 1, 1984 to June 30, 1985, the budget set forth in paragraph 2 of the Document AC/84/1

Annex 3**Report and Financial Statements**

Expressed in United States dollars

Statement of Changes in Fund Balance

	For the year ended June 30	
	1985	1984
Contribution of services to Centre by International Bank for Reconstruction and Development	\$ 256,349	\$ 242,191
Expenditures on behalf of Centre by International Bank for Reconstruction and Development	<u>(256,349)</u>	<u>(242,191)</u>
Excess of contribution over expenditures	<u>—</u>	<u>—</u>
Advances to Centre from parties to arbitration proceedings	385,028	471,622
Disbursements by Centre for fees and expenses for arbitration proceedings	<u>(334,634)</u>	<u>(333,603)</u>
Excess of advances over disbursements	<u>50,394</u>	<u>138,019</u>
Increase in payable to parties to arbitration proceedings	<u>(50,394)</u>	<u>(138,019)</u>
Change in fund balance	<u>\$ —</u>	<u>\$ —</u>

Statement of Composition of Fund Balance

	June 30, 1985	June 30, 1984
Cash in bank	\$ 245,121	\$ 201,191
Advances from parties to arbitration proceedings	(246,081)	(195,687)
Receivable from/(payable to) International Bank for Reconstruction and Development	<u>960</u>	<u>(5,504)</u>
Fund balance	<u>\$ —</u>	<u>\$ —</u>

continued next page

Annex 3 *continued***Note to Financial Statements**

June 30, 1985 and June 30, 1984

The Memorandum of Administrative Arrangements between the Centre and the International Bank for Reconstruction and Development (the Bank) which became effective as of October 14, 1966, provides, that, except to the extent that the Centre may be reimbursed by the parties to proceedings for fees and expenses of members of Conciliation Commissions, Arbitral Tribunals or Committees of Arbitrators, the Bank shall provide the following services and facilities to the Centre:

- (1) the services of staff members and consultants; and
- (2) other administrative services and facilities, such as travel, communications, office accommodations, furniture, equipment, supplies and printing.

The Centre does not have resources of its own. The reported expenditures on behalf of the Centre represent the value of the services provided by the Bank and include only those amounts identified by the Bank as being directly related to the Centre, and, accordingly, do not include any indirect or overhead costs of the Bank. The reported contributions of \$256,349 and \$242,191 for the years ended June 30, 1985 and 1984, respectively, are equal to the value of services provided by the Bank, less reimbursements by the Centre from its sale of publications and registration fees. The expenditures made on behalf of the Centre by the Bank are shown below:

	For the year ended June 30	
	1985	1984
Staff personal services	\$ 183,160	\$ 181,368
Travel	16,860	18,973
Contractual services	48,685	45,402
Administrative services and facilities	10,586	3,018
	<u>\$ 259,291</u>	<u>\$ 248,761</u>
Less: Reimbursements by Centre from sale of publications and registration fees	<u>2,942</u>	<u>6,570</u>
Total	<u>\$ 256,349</u>	<u>\$ 242,191</u>

The Centre's expenses which are attributable to arbitration and conciliation proceedings are borne by the parties in accordance with the Centre's Administrative and Financial Regulations. In accordance with these Regulations, the Secretary-General calls on the parties to make advance deposits with the Centre from time to time to defray these expenses. The cash balances reflected in the statement of composition of fund balance represent advances from parties to proceedings and amounts due to the Bank.

Report of Independent Accountants

1801 K Street, N.W
Washington, D C. 20006
July 29, 1985

To International Centre for Settlement
of Investment Disputes
Washington, D C., 20433

In our opinion, the accompanying statement of composition of fund balance and the related statement of changes in fund balance present fairly the composition of fund balance of the International Centre for Settlement of Investment Disputes for the years ended June 30, 1985 and 1984, and the changes in fund balance for the years then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year and in accordance with the Administrative Arrangements between the International Bank for Reconstruction and Development and the International Centre for Settlement of Investment Disputes, as discussed in the Note to the accompanying statements. Our examinations of these statements were made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

Price Waterhouse

Annex 4**Publications of ICSID**

Legislative History of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (4 Volumes)

- ICSID/2 Convention on the Settlement of Investment Disputes between States and Nationals of Other States, and Accompanying Report of the Executive Directors of the International Bank for Reconstruction and Development
(English, French, Spanish)
- ICSID/3 List of Contracting States and Other Signatories of the Convention
(English, French, Spanish)
- ICSID/5/Rev 1 Model Clauses Recording Consent to the Jurisdiction of the International Centre for Settlement of Investment Disputes
(English, French, Spanish)
- ICSID/8 Contracting States and Actions Taken by Them Pursuant to the Convention
(English, French, Spanish)
- ICSID/10 List of the Members of the Panels of Conciliators and of Arbitrators
(English)
- ICSID/11/Rev 1 Additional Facility for the Administration of Conciliation, Arbitration and Fact-Finding Proceedings
(English, French, Spanish)
- ICSID/12 Explanatory Brochure on the Centre
(English, French, Spanish)
- ICSID/13 Bibliography on ICSID
(English)
- ICSID/15 ICSID Basic Documents: Convention, Administrative and Financial Regulations, Institution Rules, Arbitration Rules, Conciliation Rules
(English, French, Spanish)
- ICSID/16 ICSID Cases: 1972–1984
(English)
-

Publications regarding national legislation and bilateral investment treaties*National Legislation*

The Centre has for several years been publishing a collection of national investment legislations. This collection, entitled "Investment Laws of the World", consists of 10 loose-leaf volumes. Updates are made periodically, as the need arises, for each country

Bilateral Treaties

In 1983, the Centre published a collection of bilateral treaties relating to investment promotional protection concluded since 1960. This collection is now kept in two loose-leaf volumes which are updated from time to time.

The two publications may be obtained from Oceana Publications, Inc., Dobbs Ferry, N.Y 10522 (United States).

ICSID

SEAT:
1818 H Street, N.W.
Washington, D.C. 20433, U.S.A.

Telephone: (202) 477-1234
Cable Address: ICSID