



## CANADA SIGNS THE ICSID CONVENTION

On December 15, 2006, the ICSID Convention was signed on behalf of Canada by The Honorable Michael Wilson, Canadian Ambassador to the United States. Besides the United States, which signed the Convention in August of 1965, Canada is the second of the three NAFTA parties to sign the ICSID Convention.

At the end of December 2006, 143 of the ICSID Convention signatories had also deposited their instruments of ratification to become Contracting States. An up-to-date list of the ICSID Contracting States and Other Signatories of the Convention is available on the ICSID website at <http://www.worldbank.org/icsid/>.

## THE INDUS WATERS TREATY, THE BAGLIHAR DIFFERENCE AND ICSID ADMINISTRATION OF THE PROCEEDINGS

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Over the years, ICSID has developed a recognized expertise in administering proceedings involving States. In addition to the administration of cases under the

ICSID Convention and Additional Facility Rules, ICSID has also administered a number of cases under the UNCITRAL Arbitration Rules and an inter-states dispute. This was the Southern Bluefin Tuna case — Australia and New Zealand v. Japan, for which ICSID administered the jurisdiction hearing.

ICSID was recently involved in the expert determination process carried out under the provisions of the Indus Waters Treaty. The Indus Waters Treaty concluded between India and Pakistan in 1960 has a number of unique features. First, it is the only international water treaty co-signed by a third party. This third party is the World Bank, which mediated the original dispute over the Indus basin and assisted the two parties in reaching the agreement. That process took almost nine years of intensive negotiations and mediation. The result has been a lengthy instrument addressing the various pertinent issues in a general way in the main part of the Treaty, and in a very detailed manner in its eight annexures.

A second unique feature of the Treaty is that it divided the six rivers comprising the Indus River system between the two parties, with India getting the Eastern rivers (the Sutlej, the Beas and the Ravi), and Pakistan getting the Western rivers (the Indus, the Jhelum and the Chenab). Despite this specific allocation, each country has been allowed certain uses in the rivers allocated to the other. Those uses were detailed in separate annexures to the Treaty.

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## DISPUTES BEFORE THE CENTRE

Since the publication of the last issue of *News from ICSID*, eleven new arbitration proceedings were instituted before the Centre. At the end of 2006, the total number of cases registered with the Centre since its inception reached 222.

One of the new arbitration proceedings was a case registered under the Additional Facility rules; ten further cases were brought under the ICSID Convention. In five of the recently registered proceedings, investors invoked dispute settlement provisions contained in bilateral investment treaties. In three cases, ICSID jurisdiction was asserted based on investment contracts with the host-State. Two further proceedings were initiated on the basis of the investor-State dispute settlement provision contained in the Energy Charter Treaty. One proceeding sought to establish the Centre's jurisdiction alternatively on a bilateral investment treaty or on a direct investment contract with the Respondent State.

In addition, during the period July-December 2006, the Centre registered two proceedings in which the parties sought post-award remedies. These proceedings include one request for rectification and one application for annulment of awards previously rendered in ICSID proceedings.

Tribunals were constituted or reconstituted in 13 of the 116 cases pending before the Centre in the second half of 2006. Eight first sessions and 11 hearings were held during the period July – December 2006. ICSID Tribunals issued five decisions on jurisdiction, one decision on liability and one decision on rectification of an award. *Ad hoc* Committees issued one decision on a request for the continued stay of enforcement of an award and one decision on the application for annulment of an award rendered in an ICSID proceeding.

Nine ICSID Convention arbitration cases were concluded since the publication of the last issue of *News from ICSID*. Seven awards were rendered and two cases were discontinued at the request of one or both parties.

Procedural developments in the disputes before the Centre during the period July 1 – December 31, 2006 are provided below. The latest developments are posted on the Centre's website at <http://www.worldbank.org/icsid>.

### ■ **Compañía de Aguas del Aconquija S.A. and Vivendi Universal v. Argentine Republic (Case No. ARB/97/3) — Resubmission**

*July 24 – August 4, 2006*

The Tribunal holds a hearing on the merits in Washington, D.C.

*August 25, 2006*

The parties file post-hearing briefs.

*September 29, 2006*

The parties file submissions on costs.

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

*July 14, 2006*

The Tribunal is reconstituted. Its members are: Pierre Lalive (Swiss), President; Mohammed Chemloul (Algerian); and Emmanuel Gaillard (French). The proceeding is resumed pursuant to ICSID Arbitration Rule 12.

*October 24, 2006*

The Tribunal issues a procedural order concerning procedural matters.

*November 22, 2006*

The Tribunal issues a further procedural order concerning procedural matters.

### ■ **Patrick Mitchell v. Democratic Republic of the Congo (Case No. ARB/99/7) — Annulment Proceeding**

*September 26, 2006*

The *ad hoc* Committee declares the proceeding closed in accordance with ICSID Arbitration Rules 53 and 38(1).

*November 1, 2006*

The *ad hoc* Committee issues a decision on the application for annulment.

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

*October 4, 2006*

The Tribunal renders its award.

### ■ **Antoine Goetz and others v. Republic of Burundi (Case No. ARB/01/2)**

*December 1, 2006*

The proceeding is resumed following payment of the required advances.

- **Enron Corporation and Ponderosa Assets, L.P. v. Argentine Republic (Case No. ARB/01/3)**

*July 10, 2006*  
The Chairman of the Administrative Council appoints Albert Jan van den Berg as arbitrator in accordance with ICSID Arbitration Rule 11(2)(a).

*July 11, 2006*  
The Tribunal is reconstituted. Its members are: Francisco Orrego Vicuña (Chilean), President; Albert Jan van den Berg (Dutch); and Pierre-Yves Tschanz (Swiss). The proceeding is resumed pursuant to ICSID Arbitration Rule 12.
- **MTD Equity Sdn. Bhd. and MTD Chile S.A. v. Republic of Chile (Case No. ARB/01/7) — Annulment Proceeding**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
- **CMS Gas Transmission Company v. Argentine Republic (Case No. ARB/01/8) — Annulment Proceeding**

*September 1, 2006*  
The *ad hoc* Committee issues a decision on the Respondent's request for a continued stay of enforcement of the award.

*September 13, 2006*  
The Respondent files a memorial.

*December 21, 2006*  
The Claimant files a counter-memorial.
- **Repsol YPF Ecuador S.A. v. Empresa Estatal Petroleos del Ecuador (Petroecuador) (Case No. ARB/01/10) — Annulment Proceeding**

*July 10, 2006*  
The *ad hoc* Committee holds a hearing in Quito.

*December 8, 2006*  
The *ad hoc* Committee declares the proceeding closed in accordance with ICSID Arbitration Rules 53 and 38(1).
- **Azurix Corp. v. Argentine Republic (Case No. ARB/01/12)**

(a) Original Arbitration Proceeding

*July 14, 2006*  
The Tribunal renders its award.

(b) Annulment Proceeding

*December 11, 2006*  
The Secretary-General registers an application for institution of annulment proceedings.
- **Fireman's Fund Insurance Company v. United Mexican States (Case No. ARB(AF)/02/1)**

*July 17, 2006*  
The Tribunal renders its award.
- **LG&E Energy Corp., LG&E Capital Corp. and LG&E International Inc. v. Argentine Republic (Case No. ARB/02/1)**

*October 3, 2006*  
The Tribunal issues a decision on liability.

*November 3, 2006*  
The Tribunal issues a procedural order concerning the method for determining damages.

*December 1, 2006*  
The Respondent files observations on the method for determining damages.

*December 4, 2006*  
The Claimants file observations on the method for determining damages
- **PSEG Global Inc. and Konya Ilgin Elektrik Üretim ve Ticaret Limited Sirketi v. Republic of Turkey (Case No. ARB/02/5)**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
- **SGS Société Générale de Surveillance S.A. v. Republic of the Philippines (Case No. ARB/02/6)**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
- **Hussein Nuaman Soufraki v. United Arab Emirates (Case No. ARB/02/7) — Annulment Proceeding**

*July 21, 2006*  
The parties file post-hearing briefs.

*July 28, 2006*  
The parties file statements of costs.
- **Siemens A.G. v. Argentine Republic (Case No. ARB/02/8)**

*December 15, 2006*  
The Tribunal declares the proceeding closed in accordance with ICSID Arbitration Rule 38(1).
- **Champion Trading Company and Ameritrade International, Inc. v. Arab Republic of Egypt (Case No. ARB/02/9)**

*July 10, 2006*  
The parties file statements of costs.

July 24, 2006

The parties file reply statements of costs.

October 27, 2006

The Tribunal renders its award.

■ **Ahmonseto, Inc. and others v. Arab Republic of Egypt (Case No. ARB/02/15)**

September 7, 2006

The Claimants file a memorial on new facts and updates.

October 25, 2006

The Respondent files observations on the Claimants' memorial on new facts and updates.

■ **Sempra Energy International v. Argentine Republic (Case No. ARB/02/16)**

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

■ **AES Corporation v. Argentine Republic (Case No. ARB/02/17)**

December 29, 2006

The Tribunal suspends the proceeding following the agreement of the parties.

■ **Tokios Tokelès v. Ukraine (Case No. ARB/02/18)**

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

■ **Camuzzi International S.A. v. Argentine Republic (Case No. ARB/03/2)**

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

■ **Empresas Lucchetti S.A. and Lucchetti Peru, S.A. v. Republic of Peru (Case No. ARB/03/4) — Annulment Proceeding**

August 27, 2006

The Respondent files a counter-memorial.

October 16, 2006

The Claimants file a reply.

December 15, 2006

The Respondent files a rejoinder.

■ **Metalpar S.A. and Buen Aire S.A. v. Argentine Republic (Case No. ARB/03/5)**

September 13, 2006

The Respondent files a counter-memorial on the merits.

■ **M.C.I. Power Group, L.C. and New Turbine, Inc. v. Republic of Ecuador (Case No. ARB/03/6)**

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

■ **Camuzzi International S.A. v. Argentine Republic (Case No. ARB/03/7)**

July 28, 2006

The Tribunal issues a procedural order suspending the proceeding following the request of the parties.

■ **Continental Casualty Company v. Argentine Republic (Case No. ARB/03/9)**

October 20, 2006

The Respondent files a rejoinder on the merits.

November 27 – December 2, 2006

The Tribunal holds a hearing on the merits in Washington, D.C.

■ **Gas Natural SDG, S.A. v. Argentine Republic (Case No. ARB/03/10)**

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

■ **Pan American Energy LLC and BP Argentina Exploration Company v. Argentine Republic (Case No. ARB/03/13)**

July 27, 2006

The Tribunal issues a decision on preliminary objections.

July 31, 2006

The Tribunal issues a procedural order concerning the proceeding on the merits.

■ **Miminco LLC and others v. Democratic Republic of the Congo (Case No. ARB/03/14)**

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

■ **El Paso Energy International Company v. Argentine Republic (Case No. ARB/03/15)**

July 26, 2006

The Tribunal issues a procedural order concerning the production of documents.

September 1, 2006

The Respondent files a counter-memorial on the merits.

November 28, 2006

The Claimant files a reply on the merits.

- **ADC Affiliate Limited and ADC & ADMC Management Limited v. Republic of Hungary (Case No. ARB/03/16)**

*October 2, 2006*  
The Tribunal renders its award.
  
- **Suez, Sociedad General de Aguas de Barcelona, S.A. and Interagua Servicios Integrales de Agua, S.A. v. Argentine Republic (Case No. ARB/03/17)**

*August 8, 2006*  
The Respondent files a counter-memorial on the merits.

*November 27, 2006*  
The Claimants file a reply on the merits
  
- **Aguas Cordobesas, S.A., Suez, and Sociedad General de Aguas de Barcelona, S.A. v. Argentine Republic (Case No. ARB/03/18)**

*July 6, 2006*  
The Tribunal further suspends the proceeding following the agreement of the parties.

*August 18, 2006*  
The Tribunal further suspends the proceeding following the agreement of the parties.

*August 23, 2006*  
The Claimants file a request for the resumption of the proceeding.

*September 13, 2006*  
The proceeding is resumed.

*September 18, 2006*  
The Tribunal suspends the proceeding following the agreement of the parties.

*October 16, 2006*  
The Tribunal further suspends the proceeding following the agreement of the parties.

*December 4, 2006*  
The Tribunal further suspends the proceeding following the agreement of the parties.

*December 22, 2006*  
The Claimants file a request for the discontinuance of the proceeding in accordance with ICSID Arbitration Rule 44.
  
- **Suez, Sociedad General de Aguas de Barcelona, S.A. and Vivendi Universal, S.A. v. Argentine Republic (Case No. ARB/03/19)**

*August 3, 2006*  
The Tribunal issues a decision on jurisdiction and a procedural order concerning the continuation of the proceeding on the merits.

*December 8, 2006*  
The Respondent files a counter-memorial on the merits.
  
- **Telefónica S.A. v. Argentine Republic (Case No. ARB/03/20)**

*October 6, 2006*  
The Tribunal suspends the proceeding following a request of the parties
  
- **Enerjis, S.A. and others v. Argentine Republic (Case No. ARB/03/21)**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
  
- **Electricidad Argentina S.A. and EDF International S.A. v. Argentine Republic (Case No. ARB/03/22)**

*July 7, 2006*  
Following the resignation of an arbitrator, the proceeding is suspended pursuant to ICSID Arbitration Rule 10(2).

*December 22, 2006*  
The proceeding is suspended following the request of the parties.
  
- **EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. v. Argentine Republic (Case No. ARB/03/23)**

*July 7, 2006*  
Following the resignation of an arbitrator, the proceeding is suspended pursuant to ICSID Arbitration Rule 10(2).

*October 17, 2006*  
The Tribunal is reconstituted. Its members are: William W. Park (U.S.), President; Gabrielle Kauffman-Kohler (Swiss); and Jesús Remón (Spanish). The proceeding is resumed pursuant to ICSID Arbitration Rule 12.
  
- **Plama Consortium Limited v. Republic of Bulgaria (Case No. ARB/03/24)**

*July 28, 2006*  
The Respondent files a counter-memorial on the merits
  
- **Fraport AG Frankfurt Airport Services Worldwide v. Republic of the Philippines (Case No. ARB/03/25)**

*July 18, 2006*  
The Tribunal issues a procedural order concerning the Claimant's application for review of the timetable for additional written filings.

*August 15, 2006*  
The Respondent files a supplemental post-hearing brief.

*October 25, 2006*  
The Tribunal declares the proceeding closed except for matters relating to the ongoing local proceedings.

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- **Inceysa Vallisoletana S.L. v. Republic of El Salvador (Case No. ARB/03/26)**

(a) Original Arbitration Proceeding

*August 2, 2006*  
The Tribunal renders its award.

(b) Rectification Proceeding

*September 13, 2006*  
The Acting Secretary-General registers a request for rectification of the award of August 2, 2006.

*November 16, 2006*  
The Tribunal issues its decision on rectification.
  
- **Unisys Corporation v. Argentine Republic (Case No. ARB/03/27)**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
  
- **Duke Energy International Peru Investments No. 1 Ltd v. Republic of Peru (Case No. ARB/03/28)**

*October 5, 2006*  
The Respondent files a counter-memorial on the merits.

*December 26, 2006*  
The Claimant files a reply on the merits.
  
- **Bayindir Insaat Turizm Ticaret Ve Sanayi A.S. v. Islamic Republic of Pakistan (Case No. ARB/03/29)**

*August 25, 2006*  
The Respondent files a counter-memorial on the merits.

*September 15, 2006*  
The Claimant files a request for production of documents.

*October 6, 2006*  
The Respondent files observations on the Claimant's request of September 15, 2006.

*October 10, 2006*  
The Tribunal issues a procedural order concerning the procedural calendar.

*November 27, 2006*  
The Tribunal issues a procedural order concerning document production.

*December 11, 2006*  
The parties produce documents.
  
- **Azurix Corp. v. Argentine Republic (Case No. ARB/03/30)**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
  
- **Corn Products International, Inc. v. United Mexican States (Case No. ARB(AF)/04/1)**

*July 10 – 13, 2006*  
The Tribunal holds a hearing on issues of state responsibility in Washington, D.C.
  
- **Total S.A. v. Argentine Republic (Case No. ARB/04/1)**

*August 25, 2006*  
The Tribunal issues a decision on jurisdiction.
  
- **Cemex Asia Holdings Ltd v. Republic of Indonesia (Case No. ARB/04/3)**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
  
- **SAUR International v. Argentine Republic (Case No. ARB/04/4)**

*October 27, 2006*  
The Tribunal further suspends the proceeding following the request of the parties.
  
- **Compagnie d'Exploitation du Chemin de Fer Transgabonais v. Gabonese Republic (Case No. ARB/04/5)**

*September 14, 2006*  
The Respondent files a counter-memorial on the merits.

*December 4, 2006*  
The Claimant files a reply on the merits.
  
- **OKO Pankki Oyj and others v. Republic of Estonia (Case No. ARB/04/6)**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
  
- **Sociedad Anónima Eduardo Vieira v. Republic of Chile (Case No. ARB/04/7)**

*July 20, 2006*  
The Tribunal holds a hearing on jurisdiction in Washington, D.C.
  
- **BP America Production Company and others v. Argentine Republic (Case No. ARB/04/8)**

*July 27, 2006*  
The Tribunal issues a decision on preliminary objections.

*July 31, 2006*  
The Tribunal issues a procedural order concerning the proceeding on the merits.

- **CIT Group Inc. v. Argentine Republic (Case No. ARB/04/9)**

*August 29, 2006*  
The Tribunal holds a hearing on jurisdiction in Washington, D.C.
  
- **Russell Resources International Limited and others v. Democratic Republic of the Congo (Case No. ARB/04/11)**

*August 17, 2006*  
The proceeding is stayed in accordance with ICSID Administrative and Financial Regulation 14(3)(d).
  
- **ABCI Investments N.V. v. Republic of Tunisia (Case No. ARB/04/12)**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
  
- **Jan de Nul N.V. and Dredging International N.V. v. Arab Republic of Egypt (Case No. ARB/04/13)**

*August 7, 2006*  
The Tribunal issues a procedural order concerning the schedule for written filings.

*November 15, 2006*  
The Claimants file a memorial on the merits.
  
- **Wintershall Aktiengesellschaft v. Argentine Republic (Case No. ARB/04/14)**

*February 13, 2006*  
The Respondent files a reply on jurisdiction.

*April 14, 2006*  
The Claimant files a rejoinder on jurisdiction.
  
- **Telenor Mobile Communications AS v. Republic of Hungary (Case No. ARB/04/15)**

*September 13, 2006*  
The Tribunal renders its award.
  
- **Mobil Exploration and Development Inc. Suc. Argentina and Mobil Argentina S.A. v. Argentine Republic (Case No. ARB/04/16)**

There have been no new developments to report in this case since the last issue of *News from ICSID*.
  
- **Gemplus, S.A., SLP, S.A. and Gemplus Industrial, S.A. de C.V. v. United Mexican States (Case No. ARB(AF)/04/3)**

*October 12, 2006*  
The Claimants file a reply on the merits.
  
- **Talsud, S.A. v. United Mexican States (Case No. ARB(AF)/04/4)**

*October 12, 2006*  
The Claimants file a reply on the merits.
  
- **Archer Daniels Midland Company and Tate & Lyle Ingredients Americas, Inc. v. United Mexican States (Case No. ARB(AF)/04/5)**

*July 10, 2006*  
The Claimants file a reply on the merits.

*July 21, 2006*  
The Tribunal issues a procedural order concerning confidentiality.

*September 1, 2006*  
The Respondent files a rejoinder on the merits.

*September 22, 2006*  
The Tribunal issues a procedural order concerning the conduct of the hearing.

*October 8, 2006*  
The hearing on the merits is postponed following the agreement of the parties.
  
- **Duke Energy Electroquil Partners and Electroquil S.A. v. Republic of Ecuador (Case No. ARB/04/19)**

*July 21, 2006*  
The parties file rebuttal post-hearing briefs.
  
- **Vannessa Ventures Ltd. v. Bolivarian Republic of Venezuela (Case No. ARB(AF)/04/6)**

*August 28, 2006*  
The Respondent files a memorial on jurisdiction.
  
- **RGA Reinsurance Company v. Argentine Republic (Case No. ARB/04/20)**

*September 12, 2006*  
The Tribunal issues an order taking note of the discontinuance of the proceeding pursuant to ICSID Arbitration Rule 43(1).
  
- **DaimlerChrysler Services AG v. Argentine Republic (Case No. ARB/05/1)**

*September 21, 2006*  
The Tribunal is constituted. Its members are: Pierre-Marie Dupuy (French), President; Domingo Bello Janeiro (Spanish); and Charles N. Brower (U.S.).

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■ **Compañía General de Electricidad S.A. and CGE Argentina S.A. v. Argentine Republic (Case No. ARB/05/2)**

*August 24, 2006*

The Tribunal holds its first session in Paris.

■ **LESI, S.p.A. and Astaldi, S.p.A. v. People's Democratic Republic of Algeria (Case No. ARB/05/3)**

*November 14, 2006*

Following the passing away of an arbitrator, the proceeding is suspended pursuant to ICSID Arbitration Rule 10(2).

*December 13, 2006*

The Tribunal is reconstituted. Its members are: Pierre Tercier (Swiss), President; Emmanuel Gaillard (French); and Bernard Hanotiau (Belgian). The proceeding is resumed pursuant to ICSID Arbitration Rule 12.

■ **I&I Beheer B.V. v. Bolivarian Republic of Venezuela (Case No. ARB/05/4)**

*July 17, 2006*

The Tribunal issues a procedural order concerning the procedural calendar.

*September 15, 2006*

The Respondent files a counter-memorial on the merits.

*December 18, 2006*

The Tribunal issues a procedural order concerning the production of documents.

■ **TSA Spectrum de Argentina, S.A. v. Argentine Republic (Case No. ARB/05/5)**

*August 31, 2006*

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

■ **Bernardus Henricus Funnekotter and others v. Republic of Zimbabwe (Case No. ARB/05/6)**

*November 1, 2006*

The Tribunal is constituted. Its members are: Gilbert Guillaume (French), President; Ronald A. Cass (U.S.); and Mohammad Wasi Zafar (Pakistani).

*December 15, 2006*

The Tribunal holds its first session in Paris.

■ **Saipem S.p.A. v. People's Republic of Bangladesh (Case No. ARB/05/7)**

*July 14, 2006*

The Claimant files a reply on objections to jurisdiction.

*July 26, 2006*

The Tribunal holds a conference with the parties by telephone.

*August 2, 2006*

The Tribunal issues a procedural order concerning the hearing on jurisdiction.

*August 18, 2006*

The Respondent files a reply on jurisdiction.

*September 14, 2006*

The Claimant files a rejoinder on jurisdiction.

*September 18, 2006*

The Tribunal issues further directions concerning the hearing on jurisdiction.

*September 21 – 22, 2006*

The Tribunal holds a hearing on jurisdiction in London.

■ **Parkerings-Compagniet AS v. Republic of Lithuania (Case No. ARB/05/8)**

*July 25, 2006*

The Respondent files a counter memorial on the merits.

*August 28, 2006*

The Tribunal holds a pre-hearing session by telephone conference.

*September 15, 2006*

The Claimant files additional witness statements and indexes in support of its memorial on the merits.

*September 26, 2006*

The Respondent files a request for production of documents.

*October 4, 2006*

The Claimant files observations on the Respondent's request of September 26, 2006.

*October 16, 2006*

The Tribunal issues a procedural order concerning the production of documents.

*October 20, 2006*

The Respondent files additional witness statements and documents in support of its counter-memorial on the merits. The Claimant files additional documents in support of its memorial on the merits.

*November 6 – 10, 2006*

The Tribunal holds a hearing on the merits in Paris.

*November 21, 2006*

The Claimant files hard copies of the additional exhibits and authorities introduced at the hearing on the merits.

*December 8, 2006*

The parties file post-hearing briefs.

*December 22, 2006*

The parties file statements on costs.

■ **Empresa Eléctrica del Ecuador, Inc. (EMELEC) v. Republic of Ecuador (Case No. ARB/05/9)**

*November 2, 2006*

The Claimant files a memorial on the merits.



- **Malaysian Historical Salvors, SDN, BHD v. Malaysia (Case No. ARB/05/10)**

*December 14, 2006*  
The Respondent files a further post-hearing brief.

*December 19, 2006*  
The Claimant files a further post-hearing brief.
  
- **Asset Recovery Trust S.A. v. Argentine Republic (Case No. ARB/05/11)**

*July 5, 2006*  
The Respondent files observations on the proposal for disqualification of an arbitrator.

*November 27, 2006*  
The proposal for disqualification of an arbitrator is declined and the proceeding is resumed in accordance with ICSID Arbitration Rule 9(6).
  
- **Bayview Irrigation District and others v. United Mexican States (Case No. ARB(AF)/05/1)**

*July 27, 2006*  
The Respondent files a reply on jurisdiction.

*August 28, 2006*  
The Claimants file a rejoinder on jurisdiction.

*November 14 – 15, 2006*  
The Tribunal holds a hearing on jurisdiction in Washington, D.C.

*December 15, 2006*  
The parties file post-hearing briefs.
  
- **Noble Energy Inc. and Machala Power Cía. Ltd. v. Republic of Ecuador and Consejo Nacional de Electricidad (Case No. ARB/05/12)**

*September 18, 2006*  
The Respondent files a memorial on jurisdiction.

*November 21, 2006*  
The Claimants file a counter-memorial on jurisdiction.
  
- **EDF (Services) Limited v. Romania (Case No. ARB/05/13)**

*July 11, 2006*  
The Claimant files a request for production of documents.

*July 17, 2006*  
The Respondent files a response to the Claimant's request of July 11, 2006.

*July 27, 2006*  
The President of the Tribunal issues a confidentiality order following the request of the parties.
  
- August 18, 2006*  
The Respondent files a request for production of documents.

*October 5, 2006*  
The Respondent produces documents.

*October 11, 2006*  
The Respondent files a counter-memorial on the merits and a report concerning the Claimant's request of July 11, 2006.
  
- **RSM Production Corporation v. Grenada (Case No. ARB/05/14)**

*July 3, 2006*  
The Claimant files a memorial on the merits.

*December 8, 2006*  
The Respondent files a counter-memorial on the merits.
  
- **Waguih Elie George Siag and Clorinda Vecci v. Arab Republic of Egypt (Case No. ARB/05/15)**

*July 12, 2006*  
The Claimant files a counter-memorial on jurisdiction.

*July 24, 2006*  
The Respondent files a reply on jurisdiction.

*August 4, 2006*  
The Claimant files a rejoinder on jurisdiction.

*August 8 – 9, 2006*  
The Tribunal holds a hearing on jurisdiction in Paris.
  
- **Cargill, Incorporated v. United Mexican States (Case No. ARB(AF)/05/2)**

*September 14, 2006*  
The Tribunal holds its first session in Washington, D.C.

*November 2, 2006*  
The Tribunal issues a procedural order concerning confidentiality.

*December 22, 2006*  
The Claimant files a memorial on the merits.
  
- **Rumeli Telekom A.S. & Telsim Mobil Telekomunikasyon Hizmetleri A.S. v. Republic of Kazakhstan (Case No. ARB/05/16)**

*August 10, 2006*  
The Tribunal issues a procedural order concerning the production of documents.

*August 21, 2006*  
The Claimant files a memorial on the merits.

*December 14, 2006*  
The Respondent files a counter-memorial on the merits.

■ **Desert Line Projects LLC v. Republic of Yemen (Case No. ARB/05/17)**

*October 16, 2006*

The Respondent files objections to jurisdiction.

*October 26, 2006*

The Claimant files its procedural position on the Respondent's objections to jurisdiction.

*November 9, 2006*

The Respondent files its response on the Claimant's procedural position of October 26, 2006.

*November 22, 2006*

The Tribunal issues a procedural order joining the objections to jurisdiction to the merits.

*November 23, 2006*

The Respondent files an objection concerning the schedule of filings and requests an extension to file its counter-memorial.

*November 24, 2006*

The Claimant files observation on Respondent's request of November 23, 2006.

*November 30, 2006*

The Tribunal issues a procedural order concerning a revised schedule of filings.

■ **Ioannis Kardossopoulos v. Georgia (Case No. ARB/05/18)**

*July 13, 2006*

The Claimant files a memorial on the merits.

*October 3, 2006*

The Respondent files a memorial on jurisdiction.

*November 7, 2006*

The Claimant files a counter-memorial on jurisdiction.

*December 4, 2006*

The Respondent files a reply on jurisdiction.

■ **Helnan International Hotels A/S v. Arab Republic of Egypt (Case No. ARB/05/19)**

*July 14, 2006*

The Claimant files a counter-memorial on jurisdiction.

*August 17, 2006*

The Tribunal holds a hearing on jurisdiction in Paris.

*October 17, 2006*

The Tribunal issues a decision on jurisdiction.

■ **Ioan Micula, Viorel Micula and others v. Romania (Case No. ARB/05/20)**

*September 12, 2006*

The Tribunal is constituted. Its members are: Laurent Lévy (Swiss), President; Stanimir A. Alexandrov (Bulgarian); and Claus-Dieter Ehlermann (German).

*November 10, 2006*

The Tribunal holds its first session in Paris.

■ **African Holding Company of America, Inc. and Société Africaine de Construction au Congo S.A.R.L. v. Democratic Republic of the Congo (Case No. ARB/05/21)**

*July 6, 2006*

The Tribunal is reconstituted. Its members are: Ahmed S. El-Kosheri (Egyptian), President; Dominique Grisoy (Belgian); and Otto L.O. de Witt Wijnen (Dutch). The proceeding is resumed pursuant to ICSID Arbitration Rule 12.

*October 18, 2006*

The Claimant files a memorial.

■ **Biwater Gauff (Tanzania) Limited v. United Republic of Tanzania (Case No. ARB/05/22)**

*July 7, 2006*

The Claimant files a memorial on the merits.

*July 17, 2006*

The Claimant files a request for provisional measures.

*August 4, 2006*

The Respondent files observations on the Claimant's request for provisional measures.

*August 11, 2006*

The Claimant files a response to the Respondent's observations of August 4, 2006.

*August 18, 2006*

The Respondent files further observations on the Claimant's request for provisional measures.

*September 29, 2006*

The Tribunal issues a procedural order on the Claimant's request for provisional measures.

*November 27, 2006*

The Centre receives a petition for amicus curiae participation.

*December 15, 2006*

The Respondent files observations on the petition for amicus curiae participation.

*December 22, 2006*

The Tribunal issues a procedural order concerning the parties' requests for production of documents.

■ **Ares International S.r.l. and MetalGeo S.r.l. v. Georgia (Case No. ARB/05/23)**

*October 2, 2006*

The Claimant files a memorial on the merits.

*November 16, 2006*

The Claimant files further exhibits in support of its memorial on the merits.

December 14, 2006

The Respondent files objections to jurisdiction and a request for the bifurcation of the proceeding.

December 18, 2006

The Claimant files observations on the Respondent's request of December 14, 2006.

December 21, 2006

The Respondent files observations on its request of December 14, 2006.

December 22, 2006

The Tribunal declines the Respondent's request of December 14, 2006.

■ **Hrvatska Elektroprivreda d.d. v. Republic of Slovenia (Case No. ARB/05/24)**

July 3, 2006

The Tribunal holds its first session in London.

November 10, 2006

The Claimant files a memorial on the merits.

■ **Spyridon Roussalis v. Romania (Case No. ARB/06/1)**

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

■ **Química e Industrial del Borax Ltda. and others v. Republic of Bolivia (Case No. ARB/06/2)**

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

■ **The Rompetrol Group N.V. v. Romania (Case No. ARB/06/3)**

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

■ **Vestey Group Ltd v. Bolivarian Republic of Venezuela (Case No. ARB/06/4)**

September 6, 2006

The Claimant files a request for the suspension of the proceeding. Following a request by the parties, the proceeding is suspended on September 6, 2006.

■ **Phoenix Action Ltd v. Czech Republic (Case No. ARB/06/5)**

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

■ **Rail World LLC and others v. Republic of Estonia (Case No. ARB/06/6)**

July 28, 2006

The Tribunal is constituted. Its members are: Gabrielle Kaufmann-Kohler (Swiss), President; Karl-Heinz Böckstiegel (German); and Mark Raeside (British).

July 31, 2006

Following a proposal for the disqualification of an arbitrator, the proceeding is suspended in accordance with ICSID Arbitration Rule 9(6).

August 7, 2006

The Respondent files observations on the proposal of disqualification.

August 25, 2006

Following the resignation of an arbitrator, the Centre notifies the parties of a vacancy on the Tribunal and the proceeding is suspended pursuant to ICSID Arbitration Rule 10(2).

September 26, 2006

The Tribunal is reconstituted. Its members are: Gabrielle Kaufmann-Kohler (Swiss), President; Karl-Heinz Böckstiegel (German); and Emmanuel Gaillard (French). The proceeding is resumed pursuant to ICSID Arbitration Rule 12.

October 24, 2006

The Tribunal suspends the proceeding until November 3, 2006, following the agreement of the parties.

December 7, 2006

The Tribunal, following the parties' agreement, extends the suspension of the proceeding until January 31, 2007.

■ **Togo Electricité v. Republic of Togo (Case No. ARB/06/7)**

September 8, 2006

The Tribunal is constituted. Its members are: Ahmed S. El-Kosheri (Egyptian), President; Marc Grüninger (Swiss); and Marc Lalonde (Canadian).

October 11, 2006

The Claimant files a request for provisional measures.

October 18, 2006

The Tribunal holds its first session in Paris.

November 2, 2006

The Respondent files observations on the Claimant's request of October 11, 2006.

November 17, 2006

The Claimant files a response to the Respondent's observations of November 2, 2006.

November 24, 2006

The Respondent files a request for an extension of the arbitration clause.

December 15, 2006

The Claimant files observations on the Respondent's request of November 24, 2006.

■ **Sistem Muhendislik Insaat Sanayi ve Ticaret A.S. v. Kyrgyz Republic (Case No. ARB(AF)/06/1)**

October 26, 2006

The Tribunal is constituted. Its members are: Vaughan Lowe (British), President; Nabil Elaraby (Egyptian); and Paolo Michele Patocchi (Swiss).

November 30, 2006

The Tribunal holds its first session in Geneva.

■ **Libananco Holdings Co. Limited v. Republic of Turkey (Case No. ARB/06/8)**

December 18, 2006

The Tribunal is constituted. Its members are: Michael Hwang (Singaporean), President; Henri C. Alvarez (Canadian); and Franklin Berman (British).

■ **Branimir Mensik v. Slovak Republic (Case No. ARB/06/9)**

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

■ **Chevron Block Twelve & Chevron Blocks Thirteen and Fourteen v. People's Republic of Bangladesh (Case No. ARB/06/10)**

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

■ **Occidental Petroleum Corporation and Occidental Exploration and Production Company v. Republic of Ecuador (Case No. ARB/06/11)**

July 13, 2006

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

September 29, 2006

The Claimants withdraw all claims advanced against Petroecuador in the request for arbitration.

October 13, 2006

The Secretary-General fixes a schedule for the filing of written pleadings pursuant to ICSID Arbitration Rule 39(5).

October 18, 2006

The Claimants file a request for provisional measures.

December 1, 2006

The Respondent files observations on the Claimant's request for provisional measures.

December 15, 2006

The Claimants file a reply on provisional measures.

December 30, 2006

The Respondent files a rejoinder on provisional measures.

■ **Scancem International ANS v. Republic of Congo (Case No. ARB/06/12)**

July 17, 2006

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

■ **Aguytia Energy, LLC v. Republic of Peru (Case No. ARB/06/13)**

July 18, 2006

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

■ **Shell Brands International AG and Shell Nicaragua S.A. v. Republic of Nicaragua (Case No. ARB/06/14)**

August 11, 2006

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

■ **Azpetrol International Holdings B.V., Azpetrol Group B.V. and Azpetrol Oil Services Group B.V. v. Republic of Azerbaijan (Case No. ARB/06/15)**

August 30, 2006

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

■ **Barmek Holding A.S. v. Republic of Azerbaijan (Case No. ARB/06/16)**

October 16, 2006

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

■ **Técnicas Reunidas, S.A. and Eurocontrol, S.A. v. Republic of Ecuador (Case No. ARB/06/17)**

October 31, 2006

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

■ **Cementownia "Nowa Huta" S.A. v. Republic of Turkey (Case No. ARB(AF)/06/2)**

November 16, 2006

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

■ **Joseph C. Lemire v. Ukraine (Case No. ARB/06/18)**

December 7, 2006

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

■ **Nations Energy, Inc. and others v. Republic of Panama (Case No. ARB/06/19)**

*December 11, 2006*

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

■ **Newmont USA Limited and Newmont (Uzbekistan) Limited v. Republic of Uzbekistan (Case No. ARB/06/20)**

*December 12, 2006*

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

■ **City Oriente Limited v. Republic of Ecuador and Empresa Estatal Petróleos del Ecuador (Petroecuador) (Case No. ARB/06/21)**

*December 19, 2006*

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

## DESIGNATIONS TO THE ICSID PANELS OF CONCILIATORS AND OF ARBITRATORS

Pursuant to the ICSID Convention, the Centre maintains a Panel of Conciliators and a Panel of Arbitrators. Under Article 13 of the Convention, each Contracting State may designate up to four persons to each Panel who will serve for a renewable period of six years. Up to 10 persons may be designated to each Panel by the Chairman of the Administrative Council.

In the period July 1 to December 31, 2006, the governments of the Democratic Republic of the Congo, New Zealand and Sweden made designations to the ICSID Panels. The names of the recently designated appointees are provided below. A complete list of all Panel members is posted on the ICSID website at <http://www.worldbank.org/icsid>.

### **Democratic Republic of the Congo**

*Panels of Conciliators and of Arbitrators*

Designation effective December 12, 2006:

Kalala Tshibangu

### **New Zealand**

*Panel of Arbitrators*

Designation effective July 15, 2006:

Ian Barker (re-appointment)

### **Sweden**

*Panel of Conciliators*

Designations effective November 27, 2006:

Claes Baer (re-appointment), Lars Laurin (re-appointment), Jan Ramberg (re-appointment) and Eric Runesson

*Panel of Arbitrators*

Designations effective November 27, 2006:

Hans Corell, Hans Danelius (re-appointment), Kaj Hobér (re-appointment) and Christer Söderlund

# THE INDUS WATERS TREATY, THE BAGLIHAR DIFFERENCE AND ICSID ADMINISTRATION OF THE PROCEEDINGS

(continued from page 1)

The World Bank co-signed the Treaty specifically for the purposes of Articles V and X and Annexures F, G and H. Most of the Bank's undertakings under the Treaty were completed long ago. However, the Bank's commitments under Annexures F and G on the settlement of differences and disputes remain applicable.

The Treaty provides for several processes for the settlement of issues that may arise between the two parties. Any *question* regarding the interpretation or application of the Treaty is to be first examined by the Permanent Indus Commission (Commission) established under the Treaty, with one commissioner from each country. If the Commission is unable to resolve such a *question*, then the *question* becomes a *difference*, which shall be dealt with by a Neutral Expert, to be appointed by agreement of the two parties. If the parties can not agree on a Neutral Expert, or on a third party to appoint a Neutral Expert, then, according to the provisions of the Treaty, the Neutral Expert shall be appointed by the World Bank. Detailed provisions on the Neutral Expert are laid down in Annexure F to the Treaty.

If the Neutral Expert determines that the *difference* does not fall under his mandate as prescribed by the Treaty, then the *difference* becomes a *dispute* and would be dealt with by a Court of Arbitration. The Commission itself could also deem a *difference* as a *dispute* which would be settled by a Court of Arbitration. Although the Treaty states that the decision of the Neutral Expert is final and binding, it also states that if any question which is not within the competence of the Neutral Expert should arise out of his decision, such a question should be settled in accordance with procedures that could involve the Court of Arbitration. The Court of Arbitration consists of seven arbitrators, two of whom would be appointed by each party. The remaining three (called umpires) would be appointed through a complex process that could also involve the World Bank.

Pakistan approached the World Bank on January 15, 2005, stating that a *difference* has arisen with India with regard to the Baglihar Hydropower plant which India is constructing on the Chenab river. Although the Chenab river has been allocated by the Treaty to Pakistan, India has been allowed certain uses of the river, including run-of-river hydropower plants, subject to certain conditions specified in great details under

the Treaty. India claimed that the Baglihar plant is in conformity with those conditions, while Pakistan challenged that claim.

This was the first time since the Treaty was concluded in 1960 that the Bank has been called upon by one of the parties to exercise its responsibilities under the Treaty with regard to the settlement of a *difference* or a *dispute*. The Bank studied the extensive briefings provided by the two parties and concluded that it was required under the Treaty to appoint a Neutral Expert. After consultations with the two parties, the Bank appointed on May 10, 2005, Mr. Raymond Lafitte, a Swiss national and professor at the Swiss Federal Institute of Technology as a Neutral Expert. Annexure F of the Treaty provides that the Neutral Expert determines the procedure, provided that he affords to each party an adequate hearing. In this context, the Neutral Expert requested ICSID to undertake the coordination of the process and one ICSID staff was designated as Coordinator. The parties welcomed this role for ICSID. As allowed by the Treaty, the Neutral Expert also used the services of Mr. Laurent Mouvet, civil engineer, as an assistant, and of Professor Laurence Boisson de Chazournes, as a legal adviser.

Similar to the way ICSID proceedings are handled, the Coordinator was designated as the channel for written communications among the parties and the Neutral Expert. Instruments and documents introduced by one party in the process were copied to the other party, with ICSID arranging for the proper distribution of copies. The Coordinator also provided logistical support and helped organize five meetings.

The first meeting was held in Paris, at the World Bank Office, on June 9–10, 2005. The purpose of this meeting, such as first sessions under ICSID proceedings, was to ascertain the parties' views regarding issues of procedure and to help the Neutral Expert to ensure the fair and equitable treatment of the parties, and an orderly administration of the process of carrying out his task.

At this meeting, a schedule for the filings of written instruments was agreed by the parties and the Neutral Expert, as well as dates for the visits of the site and its model and the holding of further meetings. According to the agreed schedule, India filed further documents. This was followed by a first exchange of pleadings,

Pakistan's memorial and India's counter-memorial. The sequence of the written procedure was inspired by ICSID practice which provides for two possible rounds of exchange. Before the second round of pleadings, the parties, the Neutral Expert, his assistant and ICSID staff visited the Baglihar site and its model in Roorkee.

A second meeting was held in Geneva on October 19–21, 2005 at the World Meteorological Organization. This meeting was dedicated to the parties' answers to questions raised by the Neutral Expert following the visit of the project. Further to the filing of Pakistan's Reply and India's Rejoinder, a third meeting was held on May 25-29, 2006, in London, at the International Dispute Resolution Centre Ltd. The meeting was devoted to oral presentations of the parties. This process is also based on ICSID proceedings which usually comprise two distinct phases: a written procedure followed by an oral one.

The Neutral Expert presented his draft decision to the parties in Paris, at the World Bank Office, on October 2–4, 2006. Such practice is uncommon in international arbitration but does exist in other fields. A similar feature can be found in the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization. This feature is called "Interim Review Stage." After the presentation of the draft decision, the parties were given the opportunity to file written comments on the draft decision and further presented these comments orally at the fifth meeting which took place at the World Bank Headquarters in Washington, DC, on November 7–9, 2006. Subsequent to that meeting, the parties filed additional comments on their respective presentations.

The Neutral Expert issued his decision on February 12, 2007, two years after Pakistan approached the World Bank. The decision dealt with the six contested issues: (i) maximum design flood, (ii) spillway, ungated or gated, (iii) spillway, level of the gates, (iv) artificial raising of the water level, (v) pondage, and (vi) level of the power intake.

In interpreting the Treaty, the Neutral Expert relied on the rules of the Vienna Convention on the Law of Treaties. He considered that the rights and obligations of the Treaty should be read in light of new technical norms and new standards. He also stated that the

interpretation of the Treaty should be guided by the principle of integration and the principle of effectiveness and concluded that the annexure relevant to the issues at hand should be interpreted in view of the objects and purposes indicated in the Preamble of the Treaty.

The first issue on the maximum design flood related to the calculation of the maximum amount of water which can arrive at the dam. In view of many uncertainties of flood analysis, the Neutral Expert retained the value proposed by India of 16,500 m<sup>3</sup>/s.

With regard to the second issue of a gated or ungated spillway, Pakistan considered that a gated spillway is not necessary. The Neutral Expert determined that the conditions of the site require a gated spillway, indicating that an ungated spillway might create the risk of flooding the upstream shores, and that an elevation of the dam crest, which would prevent such a risk, would be costly.

On the issue of the level of the spillway gates, Pakistan stated that even if it could be assumed (without conceding) that a gated spillway is necessary, the orifice spillway proposed by India is not located at the highest level consistent with the provisions of the Treaty. The Neutral Expert determined that the gated chute spillway on the left wing planned in India's design is at the highest level consistent with the Treaty. Moreover, the Neutral Expert considered that the outlets composing the sluice spillway, proposed by India, are of the minimum size and located at the highest level, in conformity with international practice and are state of the art, as consistent with the Treaty. However, the Neutral Expert determined that the outlets should preferably be located 8 m lower to ensure protection against upstream flooding.

On the fourth issue of the artificial raising of the water level, Pakistan considered that the dam crest elevation proposed by India is exaggerated and could be lower. The Neutral Expert determined that the dam crest elevation should be slightly lower than that proposed by India.

With regard to the volume of the maximum pondage, Pakistan argued that the value of the maximum pondage proposed by India is too high. The Neutral Expert agreed with India that the main objective of pondage

is to regulate the flow of the river to meet the consumer demand as opposed to producing constant power, as defined by Pakistan. However, the Neutral Expert determined that the value proposed by India was not in compliance with the Treaty and fixed a lower value.

On the sixth point relating to the level of the power intake, Pakistan considered that the power intake is not located at the highest level as required by the Treaty. The Neutral Expert agreed with this consideration and determined that the intake level should be raised by 3 m.

The Neutral Expert considered his decision as not being rendered against one or the other party. According to the provisions of the Treaty, the decision of the Neutral Expert is final and binding. The Neutral Expert, his

legal adviser and his assistant were financed by a Trust Fund established under the Treaty in 1960, and to which both parties contributed in equal amounts, such as in ICSID proceedings. The Neutral Expert had the mandate of deciding which of the two parties should bear the cost of the process. In this case, he directed that the parties share the cost equally.

The parties agreed that the decision of the Neutral Expert would only be disseminated in accordance with their own rules, however they allowed the Neutral Expert and Coordinator to disseminate the Executive summary of the decision. The text of the Executive Summary can be found on the World Bank Indus Waters Treaty webpage. ■



## TWENTY-THIRD AAA/ICC/ICSID JOINT COLLOQUIUM ON INTERNATIONAL ARBITRATION

The 23rd Joint Colloquium on International Arbitration, co-sponsored annually by the American Arbitration Association (AAA), the International Court of Arbitration at the International Chamber of Commerce (ICC) and ICSID was hosted this year by ICSID and took place on November 17, 2006 in Washington, D.C. The Colloquium was attended by a record number of 215 attendees, among which were prominent arbitrators and practitioners from all over the world.

This year's colloquium addressed recent developments at the three institutions; production of documents and other evidentiary issues; new challenges regarding confidentiality; and selected substantive issues arising from arbitration involving State parties.

Ana Palacio, ICSID's Secretary-General, began by welcoming the participants. As in previous years, the first panel provided an overview of the latest developments at the three institutions. Margrete Stevens, then Acting Lead Counsel at ICSID, William K. Slate II, President and Chief Executive Officer of the AAA, and Pierre Tercier, Chairman of the ICC International Court of Arbitration, addressed recent developments at each organization in the past year.

The second panel, consisting of Bernard Hanotiau of Hanotiau & van den Berg in Brussels, Ben H. Sheppard, Jr. of the University of Houston Law Center, and Robert H. Smit of Simpson Thacher & Bartlett LLP in New York was moderated by Eric Schwartz of Freshfields Bruckhaus Deringer in Paris. The panelists discussed procedural approaches available to deal with requests for production of documents in international arbitration, while considering national laws, arbitration rules, and guidelines such as the IBA Guidelines on the Taking of Evidence in International Commercial Arbitration.

"New Challenges Regarding Confidentiality" was the topic of the subsequent session, moderated by Sophie Nappert of Denton Wilde Sapte in London. Demands for greater disclosure of information in proceedings involving States have prompted parties to such arbitral proceedings to seek protection from

release of information regarding specific aspects of the dispute or its underlying facts through, e.g., confidentiality agreements. James H. Carter of Sullivan & Cromwell LLP in New York addressed these issues from the perspective of a practicing lawyer. Makhdoom Ali Khan, Attorney General for the Islamic Republic of Pakistan, shared his views on the topic from the perspective of a government official, and Anne Marie Whitesell, Secretary General of the ICC International Court of Arbitration in Paris, addressed these challenges from the point of view of an arbitral institution.

As in 2005, this year's colloquium also featured an interactive luncheon session. Moderated by Barton Legum of Debevoise & Plimpton LLP in Paris, an expert panel took questions and observations from colloquium participants. Horacio Grigera Naón of the American University's Washington College of Law in Washington, D.C., Abby Cohen Smutny of White & Case LLP in Washington, D.C. and the Hon. John Charles Thomas of Hunton & Williams LLP in Richmond, answered questions from participants and enabled an active discussion on current issues in international arbitration.

In light of the significant increase in the number of international arbitral proceedings involving State parties over the past decade, the afternoon session focused on substantive issues arising in arbitrations involving States. Raul E. Vinuesa of Vinuesa y Asociados in Buenos Aires moderated this session, which addressed three different topics. The meaning and scope of the concept of denial of justice in international law was discussed by Franz T. Schwarz of WilmerHale in London. Subsequently, Professor Karl-Heinz Böckstiegel of the University of Cologne addressed the question of the applicable law in cases involving administrative acts and J. Christopher Thomas, Q.C. of Thomas & Partners in Vancouver analyzed the latest developments related to the so-called "umbrella clauses" contained in many investment treaties.

The closing remarks were delivered by Margrete Stevens, for whom this year's colloquium was the last of a series of 17 she attended as staff member of ICSID, before joining the private practice of King & Spalding LLP. ■

## ICSID PUBLICATIONS

Since the publication of the last issue of *News from ICSID*, the Centre has prepared another issue of the *ICSID Review—Foreign Investment Law Journal* for publication. This issue features an article by Elizabeth Snodgrass on “Protecting Investors’ Legitimate Expectations – Recognizing and Delimiting a General Principle.” The issue further includes selected papers of the Colloquium on Consolidation of Proceedings in Investment Arbitration, held in Geneva on April 22, 2006. The Final Report on the Geneva Colloquium, entitled “Consolidation of Proceedings in Investment Arbitration: How Can Multiple Proceedings Arising from the Same or Related Situations Be Handled Efficiently?,” co-authored by Gabrielle Kaufmann-Kohler, Laurence Boisson de Chazournes, Victor Bonnin, and Makane Moïse Mbengue has been reproduced in this issue. A speech by Thomas Buergerthal on the proliferation of disputes, dispute settlement procedures and respect for the rule of law, and Antonio R. Parra’s introductory remarks on the desirability and feasibility of consolidation, are also included in this issue. In addition, the issue features an article by Yuval Shany, examining conditions for consolidation, tests for application and the relevancy of international law.

The texts of the Decision on Objections to Jurisdictions and the Decision on Liability issued in *LG&E Energy Corp., LG&E Capital Corp. and LG&E International Inc. v. Argentine Republic* (ICSID Case No. ARB/02/1), the Order in Response to a Petition for Transparency and Participation as *Amicus Curiae* in *Aguas Argentinas S.A., Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. v. Argentine Republic* (ICSID Case No. ARB/03/19) and the Order of the Consolidation Tribunal issued in *Corn Products International, Inc. v. United Mexican States* (ICSID Case No. ARB(AF)/04/1) and *Archer Daniels Midland Company and Tate & Lyle Ingredients Americas, Inc. v. United Mexican States* (ICSID Case No. ARB(AF)/04/5) are also contained in this issue.

The *ICSID Review—Foreign Investment Law Journal* is available on a subscription basis, at US\$78 per year for those with a mailing address in an OECD country and US\$39 for others, plus postal charges, from Journals Publishing Division, The Johns Hopkins University Press, 2715 North Charles Street, Baltimore, M.D. 21218-4363, U.S.A.; Tel.: 410-516-6987; Fax: 410-516-6968; Email: jrnlicirc@press.jhu.edu.

Other recent publications of the Centre include a new release of the Centre’s loose-leaf collection of *Investment Laws of the World*, which was issued in October 2006. This release featured new or revised investment legislation passed by the Dominican Republic, Fiji, Marshall Islands, Mauritania and Vietnam. The collection now comprises investment legislation passed by 134 countries, while also providing contact details of the main governmental agencies in charge of the promotion and protection of foreign investment in the featured countries.

The Centre also prepared a new release for its nine-volume loose-leaf collection of *Investment Treaties*. This release contains the texts of twenty bilateral investment treaties concluded by some 26 countries between 1993 and 2005.

*Investment Laws of the World* (ten loose-leaf volumes) and *Investment Treaties* (nine loose-leaf volumes) collections are available from Oceana Publications, a division of Oxford University Press, Customer Service Department, 2001 Evans Road, Cary, NC 27513, Tel.: 866-445-8685, Fax: 919-677-1303, Email: custserv.us@oup.com at US\$2,090 for both sets, US\$1,095 for the ten *Investment Laws of the World* volumes only and US\$995 for the nine *Investment Treaties* volumes only. ■

## LCIA SYMPOSIUM

Following the AAA/ICC/ICSID Symposium, the London Court of International Arbitration (LCIA), in co-operation with ICSID, held a one-day Symposium on November 18, 2006 in Washington, D.C. The symposium addressed current topics of interest in the field of international arbitration. The issues were, as usual for the format of these symposia, proposed in advance and debated from the floor under the expert guidance of well-known co-chairs. L. Yves Fortier, CC, QC of Ogilvy Renault LLP in Montreal and Martina Polasek, Counsel at ICSID co-chaired the first session, which dealt with issues of jurisdiction in international arbitration. Questions surrounding the arbitral tribunal were the focus of the second session, co-chaired by Guillermo Aguilar-Alvarez of Weil Gotshal & Manges LLP in New York and Judith Gill of Allen & Overy LLP in London. C. Mark Baker of Fulbright & Jaworski LLP in Houston and Andrew Foyle of One Essex Court in London co-chaired the afternoon session, addressing issues related to the funding of arbitration proceedings and questions of evidence. The last session was co-chaired by Hilary Heilbron of Brick Court Chambers in London and Antonio R. Parra of the University College in London. This session examined questions of procedure, and issues related to orders and awards rendered by arbitral tribunals. ■

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