

**I C S I D**

# **1986 ANNUAL REPORT**



**International Centre for  
Settlement of Investment Disputes**

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Settlement of Investment Disputes**

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International Centre for Settlement of  
Investment Disputes

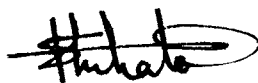
September 5, 1986

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, 1985 to June 30, 1986.

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 'Shihata', enclosed within a hand-drawn oval.

Ibrahim F.I. Shihata  
Secretary-General

Mr. Barber B. Conable  
Chairman  
Administrative Council  
International Centre for Settlement of Investment Disputes

# Introduction by the Secretary-General

On October 14, 1986 ICSID will celebrate its 20th anniversary. Before focusing on last year's developments, it may, therefore, be proper to recall the role played by ICSID since the Convention which gave it birth came into effect.

1. ICSID had a relatively slow start. The first dispute submitted to ICSID arbitration was registered on January 13, 1972, more than five years after the entry into force of the ICSID Convention. Until the end of 1980 only nine disputes had been the object of arbitration proceedings.

2. Since the beginning of 1981, ICSID's caseload has significantly increased. In the last five years nine disputes have been referred to ICSID arbitration and two disputes were the object of conciliation proceedings.

3. Out of this total of twenty cases, only eight have led to an award. The other cases have been either discontinued or amicably settled. This high proportion of settlements is encouraging. However, ICSID's effectiveness cannot be assessed only on the basis of the number of disputes that have been submitted to or settled by ICSID. When an ICSID clause provides for compulsory arbitration, it may be assumed that the prospect of involvement in such proceedings will work as a deterrent to the actions which give rise to the institution of proceedings. ICSID thus contributes to conflict avoidance as well as to settlement of conflicts if they arise.

4. On two occasions, parties dissatisfied with the outcome of the proceedings have instituted annulment proceedings and, in both cases, the original award has been annulled by ad hoc Committees appointed by the Chairman of the Administrative Council. These annulment proceedings are characteristic of the self-contained ICSID machinery. Under the ICSID Convention, an award is not open to attack on any ground in the courts of the Contracting State. Because of this, the drafters of the Convention felt it proper to provide special remedies, independent from any domestic legal system,

which give the parties the assurance that, should an arbitral tribunal deviate from the rules set forth in the Convention, the matter can be the object of impartial consideration by an independent body. This is an important guarantee of the fairness of ICSID arbitration. It can only be hoped that recourse to this remedy will remain, as it has been to the present, the exception.

5. While ICSID arbitration is cheaper than that administered by other institutions, the fact remains that arbitration can be expensive. The costs of ICSID arbitration usually exceed \$100,000 (not counting the fees of counsel for the parties) and may reach significantly higher amounts. Conscious of these considerations, the Secretariat proposed, and the Administrative Council approved in 1984, a new procedure, the "pre-hearing conference," which should expedite arbitration proceedings and be the source of significant savings. In contrast to arbitration, ICSID conciliation has proved extremely inexpensive. One conciliation proceeding was discontinued. The other led to recommendations from a sole conciliator, which were accepted by both parties, and cost less than \$11,000.

6. In addition to the specialized services offered by ICSID under the Convention, ICSID performs other activities that should be mentioned. In particular, the Secretary-General has, in an increasing number of cases, been requested by the parties to act as the appointing authority of arbitrators or conciliators in disputes which, for one reason or another (e.g. because they do not relate to an investment or because they involve a State which is not a member of ICSID), are not suitable for arbitration or conciliation within the framework of the ICSID Convention. ICSID also administers the Additional Facility which was continued by the 1984 Resolution of the Administrative Council. While no case has yet been submitted in the context of the Additional Facility, a number of bilateral investment treaties

envisage possible recourse to the Facility as a means of settling investment disputes. This would seem to imply that greater use might be made of the Facility in future years.

7. During the last 20 years, ICSID membership has grown significantly. The Convention has now been signed by 94 States and it has been ratified by 88 States. This is a significantly greater membership than that of other international arbitration conventions. Equally significant is the fact that ICSID membership has spread to all parts of the world and that certain Latin American countries traditionally hostile to international (and not only ICSID) arbitration have ratified the Convention (Ecuador, El Salvador and Paraguay) or signed the Convention (Costa Rica and Honduras). The fact that other Latin American countries have recently signed the Convention Establishing the Multilateral Investment Guarantee Agency (MIGA) may indicate that these countries will show greater willingness to join ICSID in the near future.

8. ICSID promotional activities have considerably increased in the last few years. As a result of the Secretariat's initiative, new brochures have been issued and new publications have appeared. These include *News from ICSID*, which was initiated in 1984 and aims at disseminating current information on ICSID activities, and *ICSID Review - Foreign Investment Law Journal*, which was first published in April 1986. The latter periodical contains articles and comments on the legal aspects of foreign investments, and other relevant material, including cases, legislation and investment treaties, book reviews and bibliographical information pertinent to that field of law.

In addition the Secretariat has organized and participated in an increasing number of seminars and colloquia relating to arbitration, investments, finance and other matters in order to reach not only the legal community but also other professional circles.

The Secretariat continues to receive in-

creasing inquiries concerning information on ICSID, the drafting of ICSID clauses and the conditions for using ICSID conciliation/arbitration.

9. Turning now to the last fiscal year, I should mention first that, during the course of this year, Ecuador has become a member of ICSID, and Honduras and Thailand have signed the Convention. This has brought membership to 88 States, and the total number of signatories to 94.

10. No new case was registered by ICSID this year. An ad hoc committee has annulled, by a decision rendered on May 16, 1986, an award rendered on November 20, 1984. Two awards have been rendered and the recommendations of a conciliator have been accepted by the parties.

To date five arbitration proceedings (including a proceeding following the annulment on May 3, 1985 of an award rendered on October 21, 1983, and the resubmission of the dispute to a new tribunal) are pending.

11. As mentioned above, the Secretariat has continued vigorously to carry out its promotional activities. Participation in colloquia acquired a new geographical significance. In addition to attending seminars in Europe and the United States, the Secretariat was represented at seminars held in Brazil and Egypt. On these occasions, the Secretariat submitted papers to be published in the proceedings of such seminars. The Secretariat also published articles on ICSID in legal periodicals.

The first issue of *ICSID Review - Foreign Investment Law Journal* appeared in April 1986. This new review, which is specialized in publishing information on the legal issues relating to foreign investments, has been well received by the public. The second issue will appear in October 1986. Work is in progress on the third issue, scheduled to appear in April 1987.

12. The Secretariat has pursued its analysis of bilateral investment treaties concluded by ICSID members. This material has been used

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## Membership

in connection with the preparation of a Handbook on investment treaties.

13. The Secretariat has undertaken to reorganize and update its collection of *Investment Laws of the World* and has issued an additional release of 18 bilateral investment treaties to be included in its *Investment Treaties* series.

14. The Secretariat has made arrangements for the publication of the decisions of ICSID arbitral tribunals already published or to be published by ICSID with the consent of the parties, and of the decisions of domestic courts relating to the ICSID Convention, which are in the public domain. This material will appear in a collection entitled *ICSID Cases* which will be of direct interest to member states, investors and the legal profession.

15. Everything considered, I believe that ICSID is an institution in progress. I intend to make certain that this progress continues so that ICSID can effectively respond to the need of its member countries and contribute to improve the investment climate and investment flows to developing countries in a depoliticized framework.

During the past fiscal year the Convention was signed by Thailand on December 6, 1985, by Ecuador on January 15, 1986, and by Honduras on May 28, 1986. Ecuador deposited its instrument of acceptance on the day it signed the Convention. At present 94 States have signed the Convention and 88 have ratified it. A complete list of Contracting States and Signatories of the Convention appears in Annex I.

**Ibrahim F.I. Shihata**  
**Secretary-General**

# Disputes before the Centre

## [A] Arbitration Proceedings

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

September 7, 1985—The *ad hoc* Committee meets in Rome.

January 7–13, 1986—The *ad hoc* Committee meets in Vienna (from January 8–10 with the parties).

April/May, 1986—The *ad hoc* Committee meets in Paris and Vienna.

May 16, 1986—The *ad hoc* Committee renders its decision annulling the award.

### (2) *Klöckner - Cameroon (Case ARB/81/2) - Resubmission*

March 3, 1986—The Secretary-General notifies the parties that the Tribunal, consisting of Mr. Carl F. Salans (U.S.), appointed by the parties; H.E. Jorge Castaneda (Mexican), appointed by Cameroon; and Mr. Juan Antonio Cremades Sanz Pastor (Spanish), appointed by Klöckner, has been constituted.

April 18, 1986—The Tribunal meets in Paris with the parties for a preliminary procedural consultation.

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

May 30, 1985—The Secretary-General notifies the parties and the arbitrators that the Tribunal has been reconstituted and the proceedings resumed.

July/September, 1985—The Tribunal meets in Paris and in The Hague.

January/March, 1986—The Tribunal meets in The Hague and in Amsterdam.

### (4) *The Liberian Eastern Timber Corporation (LETCO) v. the Government of the Republic of Liberia (Case ARB/83/2)*

December 9–11, 1985—The Tribunal

meets in Paris and hears witnesses on behalf of Claimant.

March 31, 1986—The Award is rendered.

### (5) *Atlantic Triton Limited v. the Republic of Guinea (Case ARB/84/1)*

September 11–13, 1985—In the presence of the parties, the Tribunal holds a session in The Hague, at which witnesses are heard.

February 25, 1986—The President of the Tribunal informs the parties that the proceeding is closed in accordance with Arbitration Rule 38(1).

March/April, 1986—The Tribunal meets in Paris and in Rotterdam.

April 21, 1986—The Award is signed by the arbitrators.

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

November 18, 1985—The Tribunal meets in Washington, D.C. in the presence of the parties. The Tribunal issues an Order to Stay the proceeding, until the resolution by the U.S. courts of a point of U.S. law.

### (7) *S.P.P. (Middle East) Limited v. The Arab Republic of Egypt (Case ARB/84/3)*

July 10–11, 1985—The Tribunal meets in The Hague in the presence of the parties.

September 12–14, 1985—The Tribunal meets in The Hague.

November 21–27, 1985—The Tribunal meets in London.

November 27, 1985—The Tribunal issues a decision on the preliminary objections to jurisdiction and stays the proceedings until proceedings in French courts have finally resolved the question whether the parties agreed to submit their dispute to the jurisdiction of the



## Panels of Conciliators and of Arbitrators

court of arbitration of the International Chamber of Commerce.

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

September 3, 1985—Claimant files its Memorial.

September 6, 1985—The Tribunal meets in Washington, D.C.

November 8, 1985—Respondent files its Counter-Memorial.

December 4, 1985—The Tribunal recommends provisional measures and in particular that: (i) MINE immediately withdraw and permanently discontinue all proceedings in national courts, and commence no new action arising out of the dispute; and (ii) MINE dissolve every existing provisional measure in litigation in national courts and seek no remedy in a national court.

December 20, 1985—Claimant files its Reply to the Counter-Memorial.

December 24, 1985—Claimant files an Application for Reconsideration and Modification of the Tribunal's recommendations of December 4, 1985.

February 5, 1986—The Tribunal denies Claimant's Application of December 24, 1985.

March 10, 1986—The Tribunal meets in Washington, D.C. in the presence of the parties.

[B] Conciliation Proceedings

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

November 5-12, 1985—The parties address their submissions to the conciliator.

December 3, 1985—The conciliator files his Report, formally closing the proceeding.

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 to the Panels have been made by the following Contracting States:

● **Austria:**

Designations effective as of July 29, 1985, except where noted differently:

*Panel of Conciliators:*

Dr. Helmut Haschek (re-appointment).

*Panels of Conciliators and of Arbitrators:*

Dr. Werner Melis (re-appointment), and Dr. J. Hanns Pichler (designation effective as of September 3, 1985).

*Panel of Arbitrators:*

Dr. Guido Nikolaus Schmidt-Chiari (re-appointment).

● **Botswana:**

Designations effective as of February 20, 1986:

*Panels of Conciliators and of Arbitrators:*

Mr. I.S. Kirby, Mr. E.W.M.J. Legwaili, Mr. J.Z. Mosojane, and Mr. P.T.C. Skelemeni.

● **Denmark:**

Designations effective as of June 11, 1986:

*Panels of Conciliators and of Arbitrators:*

Mr. Isi Foighel (re-appointment), Mr. Kurt Haulrig, Mr. Per Magid, and Mr. Frank Poulsen.

● **Gabon:**

Designations effective as of October 9, 1985:

*Panels of Conciliators and of Arbitrators:*

Mr. Gustave Bongo, Mr. Alain Essiane, Mrs. Marie-Madeleine Mborantchouo, and Mr. Jean François Ntoutoume (re-appointment).

● **Korea:**

Designations effective as of May 22, 1986:

*Panels of Conciliators:*

Dr. Soung Soo Kim, Mr. Kwang Young Kim, Mr. Hai-Hyung Cho, and Mr. Choon Taik Chung.

*Panels of Arbitrators:*

Mr. Suk Yoon Koh, Mr. Doo-Hyun Kim, Dr. Sang Hyun Song, and Dr. Ju-Chan Sonn.

● **Liberia:**

Designations effective as of July 2, 1985:

*Panel of Conciliators:*

Mr. Elwood L. Jangaba, Mr. Frank W. Smith, and Mr. E. Winfred Smallwood.

*Panel of Arbitrators:*

Mr. James S. Guseh, Mr. Momolue B. Tamba, Mr. Samuel McIntosh, and Mr. Philip A.Z. Banks, III.

● **Mauritius:**

Designations effective as of July 5, 1985:

*Panels of Conciliators and of Arbitrators:*

Mr. Jean Marc David, CBE, QC (re-appointment), Mr. A. Hamid Moolan (re-appointment), and Sir Maurice Rault, KB, QC.

● **Morocco:**

Designations effective as of November 25, 1985:

*Panels of Conciliators and of Arbitrators:*

Mr. Bansalem Ahmed (re-appointment), Mr. Mohammed Hassan, Mr. Hassan Kettani, and Mr. M'Fadel Lahlou.

● **Pakistan:**

Designations effective as of October 10, 1985:

*Panel of Conciliators:*

Mr. Mohammad Yaqub Ali Khan (re-appointment), and Mr. A.K. Brohi (re-appointment).

*Panel of Arbitrators:*

Mr. Justice Irshad Hasan Khan, and Mr. Syed Sharifuddin Pirzada (re-appointment).

● **Portugal:**

Designations effective as of August 12, 1985:

*Panels of Conciliators and of Arbitrators:*

Dr. Sebastiao Honorato, Dr. Antonio Gabriel Osorio de Castro, Dr. Rui Eduardo Ferreira Rodrigues Pena, and Dr. Antonio Maria Pereira.

● **Senegal:**

Designations effective as of April 15, 1986:

*Panel of Arbitrators:*

Mr. El Hadji Demba Diop (re-appointment), Mr. Mouhamadou Mactar MBacke, and Mr. Yoro Bocar Sy.

● **United Kingdom:**

Designation effective as of April 28, 1986:

*Panel of Conciliators:*

Mr. D.C. Calcutt, QC (replacement).

# Publications

## Bibliography

An updated version of the ICSID Bibliography, published as an ICSID Document (Doc. ICSID/13), will appear in the October issue of *ICSID Review - Foreign Investment Law Journal*.

## ICSID Cases

Several decisions and awards rendered by ICSID tribunals have been published in law journals as a result of unilateral disclosure by one of the parties. The Secretariat feels that disclosure should be made through the Secretariat, by the mutual consent of the parties.

On two occasions, the Secretariat has received such an authorization. The first one concerns a decision on jurisdiction, published anonymously in *News from ICSID*, Vol. 2, No. 2 (Summer 1985), pp. 3-6. The second relates to the decision of the Ad Hoc Committee annulling the award rendered in the case of *Klöckner Industrie Anlagen GmbH et al. v. the United Republic of Cameroon and Société Camerounaise des Engrais (SOCAME)*, published in English translation in 1 *ICSID Review - Foreign Investment Law Journal* 89-144(1986). The Secretariat intends to regularly ask the parties to disputes submitted to ICSID to authorize publications of the awards in this journal.

Decisions of domestic courts relating to the ICSID Convention are in the public domain and several of them have been published in *News from ICSID* and are scheduled to appear in *ICSID Review - Foreign Investment Law Journal*.

The Secretariat considers that it is in the interests of Contracting States, foreign investors, arbitrators and the legal community to reproduce in a single collection all these documents. Reproduction will be done with the permission of the journals in which earlier ICSID decisions have appeared and whenever possible in the future with the authorization of the parties.

This new collection, entitled *ICSID Cases*, will be published by Oceana Publications, Inc.

## ICSID Review - Foreign Investment Law Journal

The first issue of this new Review collecting under one cover material on the law and practice relating to foreign investments appeared in April 1986. It included the following:

### Articles by

Dr. Ibrahim F.I. Shihata, "Towards a Greater Depoliticization of Investment Disputes: The Roles of ICSID and MIGA";

Professor Pierre Lalive, "Some Threats to International Investment Arbitration";

Dr. Rudolf Dolzer, "Indirect Expropriation of Alien Property".

### Comments by

Mr. Branko Vukmir, "Recent Developments in Joint Venture Legislation in Yugoslavia";

Mr. William T. Onorato, "Promoting Foreign Investment through International Petroleum Joint Development Regimes".

### Cases

*Klöckner v. Republic of Cameroon* (ARB/81/2), Decision of the Ad Hoc Committee of May 3, 1985.

### Documents

– Convention Establishing the Multilateral Investment Guarantee Agency, October 11, 1985, and Commentary on the Convention.

– Treaty between the United States of America and the Kingdom of Morocco Governing the Encouragement and Reciprocal Protection of Investments, July 22, 1985.

## Bibliography

### Book Reviews

A second issue of the Review will appear in October 1986. It will include, *inter alia*, the following:

#### Articles by

Mr. Georges R. Delaume, "ICSID and the Transnational Financial Community";

Messrs. Ahmed El-Kosheri and Tarek Riad, "The Law Governing a New Generation of Petroleum Agreements: Changes in the Arbitration Process";

Ms. Natalie Lichtenstein, "Legal Implications of China's Economic Reforms";

#### Comments by

Mr. Ibrahim F.I. Shihata, "MIGA and the Standards Applicable to Foreign Investments";

Messrs. Lester Nurick and Stephen J. Schnably, "The First ICSID Conciliation; Tesoro Petroleum Corporation v. Trinidad and Tobago";

Messrs. Charles C. Adams, Jr. and Vincent Sol, "Madagascar's New Investment Code: Definite Progress."

#### Cases

The Republic of Guinea and its Public Institutions v. Maritime International Nominees Establishment, decision of the Tribunal of First Instance, Judge for Attachment Matters, Antwerp, September 27, 1985.

Maritime International Nominees Establishment v. The Republic of Guinea, judgment of the Tribunal of First Instance, Geneva, March 13, 1986.

#### Documents

The 1985 Malagasy Investment Law.  
Treaties Concerning the Reciprocal Encouragement and Protection of Invest-

ments between the United States of America and The Arab Republic of Egypt; the United States of America and the Republic of Turkey; and the United States of America and the Republic of Cameroon.

Agreement for the Promotion, Protection and Guarantee of Investment among Member States of the Organization of Islamic Conference; approved and open for signature at the 12th Islamic Conference of foreign ministers held in Baghdad, Iraq from June 1 to June 5, 1981.

## Bibliography

### Book Reviews

## News from ICSID

Two issues have been published during this fiscal year, i.e Vol. 3, No. 1 (Winter 1986) and Vol. 3, No. 2 (Summer 1986). The major features of these issues include: The MIGA Convention is Approved, Further Progress Towards the Establishment of MIGA, ICSID Participates in The International Congress on Commercial Arbitration held in Rio de Janeiro July 29-31, 1985, The International Chamber of Commerce Hosts a Third ICSID, AAA, ICC Symposium, ICSID and the Courts, ICSID/MIGA and International Lending.

Following the publication of *ICSID Review - Foreign Investment Law Journal*, *News from ICSID* will focus primarily on disseminating current information on ICSID's activities. Featured articles will appear in the Review.

## Bilateral Investment Treaties

With the cooperation of ICSID members, the Secretariat has collected 18 new treaties which have been published and added to the collection of *Investment Treaties*. Eleven of these treaties make reference to ICSID as

## Promotional Activities

a means of settling investment disputes.

The Secretariat has continued its systematic analysis of the provisions of treaties included in *Investment Treaties*. The results of this analysis have been used to assist in the preparation of a Handbook on investment treaties, under the auspices of ICSID. The writing of the Handbook has begun and it is expected that it will be completed soon.

### Other Publication Activities

A number of articles in law reviews and professional journals have been written by the Secretariat. Papers prepared by the Secretariat for seminars and colloquia have also been published or are in the process of publication.

*News from ICSID* periodically contains a list of publications concerning ICSID. A comprehensive list of publications on ICSID appears in *ICSID Bibliography* (Doc. ICSID/13). The Bibliography has recently been updated and will be reproduced in the October 1986 issue of *ICSID Review - Foreign Investment Law Journal*.

### Rio de Janeiro, Congress on International Arbitration July 29-31, 1985

The Congress considered a number of topics concerning the use and practice of international arbitration, including questions relating to the Brazilian experience. The Secretary-General's speech was entitled "Towards a Greater Depoliticization of Investment Disputes: The Roles of ICSID and MIGA." The theme was that the Calvo doctrine has not prevented powerful States from espousing the claims of their nationals, nor did it prevent Latin American countries from accepting the jurisdiction of foreign fora in their need to raise foreign capital. ICSID and MIGA, which are intended to balance the interests of developing countries and foreign investors, provide modern ways to depoliticize investment disputes by offering to the parties suitable international means of settling disputes and arriving at amicable settlements in the context of procedures exempt from political intervention. Mr. Georges R. Delaume, Senior Legal Adviser, spoke on the subject of "State Contracts and Transnational Arbitration." The speech focused attention on issues that should be considered by the draftsman of arbitration agreements to which a State is a party in order to alert private and governmental parties to the seriousness of their commitment to arbitrate and to the likely effectiveness of the arbitral process.

### Paris, Third ICSID, AAA, ICC Symposium

On October 24, 1985, the third joint conference co-sponsored by ICSID, the American Arbitration Association (AAA) and the International Chamber of Commerce (ICC) was held in Paris, France, on the subject of Resolving International Commercial Disputes. The Secretary-General spoke on

"Obstacles Facing ICSID's Proceedings and International Arbitration in General." He stressed the problems attendant upon the selection of few arbitrators from developing countries due to the fact that a number of Contracting States have failed to designate persons to serve on ICSID Panels or have designated only public officials who, regardless of their qualifications, may not always be appropriate candidates and, at any rate, may not have the time to serve as arbitrators. When proper designations have been made, the Chairman of the Administrative Council has been able to appoint eminent jurists from developing countries. The Secretary-General emphasized the importance of increasing a diversified representation of nationalities in ICSID tribunals. The Secretary-General also noted that a special effort should be made to train persons from developing countries in matters concerning the settlement of transnational disputes. As mentioned in another part of this Report, a step in that direction has been made by ICSID in assisting the International Development Law Institute in the organization of arbitration courses.

The Secretary-General also expressed concern as to the duration of arbitration proceedings and the hope that greater use be made of the prehearing conference procedure offered by ICSID Arbitration Rules as amended in 1984.

Turning to the issue of the costs of proceedings, the Secretary-General noted that it was generally recognized that ICSID arbitration is less expensive than arbitration conducted under the auspices of other institutions. Nevertheless, he underlined the need for all parties concerned to attempt to minimize the costs of arbitration.

Mr. Georges R. Delaume, Senior Legal Adviser, described some practical aspects of ICSID arbitration proceedings beginning with issues that may confront the Secretariat at the time a request is submitted for registration, and following with problems con-

cerning the constitution of the tribunal, the implementation of ICSID Rules, jurisdictional issues that were raised in past proceedings, and ending with the recognition and enforcement of ICSID arbitral awards.

## **Cairo, Seminar for International Commercial Arbitration January 19-22, 1986**

The Secretary-General attended this seminar and submitted a paper on "The Settlement of Disputes Regarding Foreign Investments: The Role of The World Bank, with Particular Reference to ICSID and MIGA." He recalled that in its forty years of existence The World Bank had pursued the promotion of private foreign investment in a number of ways. As a financial institution, The World Bank has associated the private capital market to its operations, either through its own borrowings in the market or through cofinancing operations. The World Bank has also successfully sponsored the establishment of three other international organizations designed to promote investment, i.e. the International Finance Corporation (IFC), ICSID and the Multilateral Investment Guarantee Agency (MIGA).

The Secretary-General recalled that on a number of occasions, The World Bank had taken an active role in the settlement of disputes between member countries and foreign investors, e.g. in connection with loan disputes or nationalizations, and that late in 1985 The World Bank agreed to provide technical advice to help a state gas company and a foreign company settle their differences.

The Secretary-General described the way in which ICISD has contributed, and can further contribute to the settlement of investment disputes. He stressed the balancing of the interests of States and foreign investors, which is a characteristic feature of ICSID and the effectiveness of ICSID as a means to

depoliticize disputes.

The Secretary-General emphasized the significance of MIGA as an additional means of encouraging the flow of investments for productive purposes among its member countries, and in particular to developing countries, both through its insurance or guarantee operations regarding non-commercial risk and through its promotional activities, which will include research, dissemination of information on investment opportunities in developing countries, and the provision of technical advice and assistance requested by members to improve investment conditions in their territories. The Secretary-General also explained how MIGA can contribute to prevent disputes from arising by making certain at the outset that investments covered by it meet all standards of fairness to both investors and States. MIGA, like ICSID and The World Bank, can effectively serve the broad objective of promoting investments for development purposes.

## Other Conferences

The Secretariat participated in a number of conferences including *inter alia*: (i) an International Conference on the Promotion and Protection of Foreign Private Investment in Developing Countries (St. Gallen, Switzerland, November 12-13, 1985); (ii) a conference sponsored by the International Law Institute on the Judicial Settlement of Foreign Debt Obligations (New York, N.Y., February 20-21, 1986); (iii) the Annual Meeting of the American Society of International Law (Washington, D.C., April 9-12, 1986); (iv) the Fourth Annual Institute on International Finance organized by the Southern Methodist University (Dallas, Texas, April 16-18, 1986); (v) the IXth Inter-American Conference on International Commercial Arbitration (Miami, Florida, May 1-2, 1986); and (vi) an Investment Seminar organized by the U.N. Department of Technical Co-operation for Development (New York, N.Y., June 19, 1986).

## Cooperation with the International Development Law Institute

The 1985 Annual Report referred to the assistance given by ICSID to the International Development Law Institute (IDLI), in Rome, Italy, in regard to the organization of a two-week course conducted in French in February 1985 on the subject of resolving international contract disputes. Similar assistance was given to IDLI in December 1985 in regard to a two-week course conducted in English on the same subject. The course was attended by 25 senior legal advisers from Cameroon, Ecuador, Ethiopia, Ghana, India, Jamaica, Kenya, Mauritius, Morocco, Mozambique, Nigeria, Pakistan, Saudi Arabia, Somalia, Sri Lanka, Tanzania, the United States, Vietnam and Yugoslavia.

# **Nineteenth Annual Meeting of the Administrative Council**

## **Finance**

The Nineteenth Annual Meeting of the Administrative Council took place on October 10, 1985, in Seoul, Republic of Korea, on the occasion of the Annual Meeting of the Board of Governors of The World Bank.

In the course of the meeting, the Council approved the 1985 Annual Report on the Operation of the Centre and the budget for fiscal year 1986.

The Resolutions adopted at the Meeting are set forth in Annex 2.

The Financial Statements of ICSID for the fiscal year 1986 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 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, 1986)

The 94 States listed below have signed the Convention on the dates indicated. The names of the 88 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.<sup>1</sup>

State	Signature	Deposit of Ratification	Entry into Force of Convention
<b>Afghanistan</b>	Sep. 30, 1966	Jun. 25, 1968	Jul. 25, 1968
Australia	Mar. 24, 1975		
<b>Austria</b>	May 17, 1966	May 25, 1971	Jun. 24, 1971
<b>Bangladesh</b>	Nov. 20, 1979	Mar. 27, 1980	Apr. 26, 1980
<b>Barbados</b>	May 13, 1981	Nov. 1, 1983	Dec. 1, 1983
<b>Belgium</b>	Dec. 15, 1965	Aug. 27, 1970	Sep. 26, 1970
<b>Benin, People's Republic of</b>	Sep. 10, 1965	Sept. 6, 1966	Oct. 14, 1966
<b>Botswana</b>	Jan. 15, 1970	Jan. 15, 1970	Feb. 14, 1970
<b>Burkina Faso</b>	Sep. 16, 1965	Aug. 29, 1966	Oct. 14, 1966
<b>Burundi</b>	Feb. 17, 1967	Nov. 5, 1969	Dec. 5, 1969
<b>Cameroon</b>	Sep. 23, 1965	Jan. 3, 1967	Feb. 2, 1967
<b>Central African Republic</b>	Aug. 26, 1965	Feb. 23, 1966	Oct. 14, 1966
<b>Chad</b>	May 12, 1966	Aug. 29, 1966	Oct. 14, 1966
<b>Comoros</b>	Sep. 26, 1978	Nov. 7, 1978	Dec. 7, 1978
<b>Congo, People's Republic of the</b>	Dec. 27, 1965	Jun. 23, 1966	Oct. 14, 1966
Costa Rica	Sep. 29, 1981		
<b>Cyprus</b>	Mar. 9, 1966	Nov. 25, 1966	Dec. 25, 1966
<b>Denmark</b>	Oct. 11, 1965	Apr. 24, 1968	May 24, 1968 <sup>2</sup>
<b>Ecuador</b>	Jan. 15, 1966	Jan. 15, 1966	Feb. 14, 1966
<b>Egypt, Arab Republic of</b>	Feb. 11, 1972	May 3, 1972	Jun. 2, 1972
<b>El Salvador</b>	Jun. 9, 1982	Mar. 6, 1984	Apr. 5, 1984
Ethiopia	Sep. 21, 1965		
<b>Fiji</b>	Jul. 1, 1977	Aug. 11, 1977	Sep. 10, 1977
<b>Finland</b>	Jul. 14, 1967	Jan. 9, 1969	Feb. 8, 1969
<b>France</b>	Dec. 22, 1965	Aug. 21, 1967	Sep. 20, 1967
<b>Gabon</b>	Sep. 21, 1965	Apr. 4, 1966	Oct. 14, 1966
<b>Gambia, The</b>	Oct. 1, 1974	Dec. 27, 1974	Jan. 26, 1975
<b>Germany, Federal Republic of</b>	Jan. 27, 1966	Apr. 18, 1969	May 18, 1969 <sup>3</sup>
<b>Ghana</b>	Nov. 26, 1965	Jul. 13, 1966	Oct. 14, 1966
<b>Greece</b>	Mar. 16, 1966	Apr. 21, 1969	May 21, 1969
<b>Guinea</b>	Aug. 27, 1968	Nov. 4, 1968	Dec. 4, 1968
<b>Guyana</b>	Jul. 3, 1969	Jul. 11, 1969	Aug. 10, 1969
Haiti	Jan. 30, 1985		
Honduras	May 28, 1986		
<b>Iceland</b>	Jul. 25, 1966	Jul. 25, 1966	Oct. 14, 1966
<b>Indonesia</b>	Feb. 16, 1968	Sep. 28, 1968	Oct. 28, 1968
<b>Ireland</b>	Aug. 30, 1966	Apr. 7, 1981	May 7, 1981
<b>Israel</b>	Jun. 16, 1980	Jun. 22, 1983	Jul. 22, 1983
<b>Italy</b>	Nov. 18, 1965	Mar. 29, 1971	Apr. 28, 1971
<b>Ivory Coast</b>	Jun. 30, 1965	Feb. 16, 1966	Oct. 14, 1966
<b>Jamaica</b>	Jun. 23, 1965	Sep. 9, 1966	Oct. 14, 1966
<b>Japan</b>	Sep. 23, 1965	Aug. 17, 1967	Sep. 16, 1967

<sup>1</sup>The 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.

<sup>2</sup>Denmark 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.

<sup>3</sup>Germany 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
<b>Jordan</b>	Jul. 14, 1972	Oct. 30, 1972	Nov. 29, 1972
<b>Kenya</b>	May 24, 1966	Jan. 3, 1967	Feb. 2, 1967
<b>Korea, Republic of</b>	Apr. 18, 1966	Feb. 21, 1967	Mar. 23, 1967
<b>Kuwait</b>	Feb. 9, 1978	Feb. 2, 1979	Mar. 4, 1979
<b>Lesotho</b>	Sep. 19, 1968	Jul. 8, 1969	Aug. 7, 1969
<b>Liberia</b>	Sep. 3, 1965	Jun. 16, 1970	Jul. 16, 1970
<b>Luxembourg</b>	Sep. 28, 1965	Jul. 30, 1970	Aug. 29, 1970
<b>Madagascar</b>	Jun. 1, 1966	Sep. 6, 1966	Oct. 14, 1966
<b>Malawi</b>	Jun. 9, 1966	Aug. 23, 1966	Oct. 14, 1966
<b>Malaysia</b>	Oct. 22, 1965	Aug. 8, 1966	Oct. 14, 1966
<b>Mali</b>	Apr. 9, 1976	Jan. 3, 1978	Feb. 2, 1978
<b>Mauritania</b>	Jul. 30, 1965	Jan. 11, 1966	Oct. 14, 1966
<b>Mauritius</b>	Jun. 2, 1969	Jun. 2, 1969	Jul. 2, 1969 <sup>4</sup>
<b>Morocco</b>	Oct. 11, 1965	May 11, 1967	Jun. 10, 1967
<b>Nepal</b>	Sep. 28, 1965	Jan. 7, 1969	Feb. 6, 1969
<b>Netherlands</b>	May 25, 1966	Sep. 14, 1966	Oct. 14, 1966 <sup>5</sup>
<b>New Zealand</b>	Sep. 2, 1970	Apr. 2, 1980	May 2, 1980 <sup>6</sup>
<b>Niger</b>	Aug. 23, 1965	Nov. 14, 1966	Dec. 14, 1966
<b>Nigeria</b>	Jul. 13, 1965	Aug. 23, 1965	Oct. 14, 1966
<b>Norway</b>	Jun. 24, 1966	Aug. 16, 1967	Sep. 15, 1967
<b>Pakistan</b>	Jul. 6, 1965	Sep. 15, 1966	Oct. 15, 1966
<b>Papua New Guinea</b>	Oct. 20, 1978	Oct. 20, 1978	Nov. 19, 1978
<b>Paraguay</b>	Jul. 27, 1981	Jan. 7, 1983	Feb. 6, 1983
<b>Philippines</b>	Sep. 26, 1978	Nov. 17, 1978	Dec. 17, 1978
<b>Portugal</b>	Aug. 4, 1983	Jul. 2, 1984	Aug. 1, 1984
<b>Romania</b>	Sep. 6, 1974	Sep. 12, 1975	Oct. 12, 1975
<b>Rwanda</b>	Apr. 21, 1978	Oct. 15, 1979	Nov. 14, 1979
<b>Saudi Arabia</b>	Sep. 28, 1979	May 8, 1980	Jun. 7, 1980
<b>Senegal</b>	Sep. 26, 1966	Apr. 21, 1967	May 21, 1967
<b>Seychelles</b>	Feb. 16, 1978	Mar. 20, 1978	Apr. 19, 1978
<b>Sierra Leone</b>	Sep. 27, 1965	Aug. 2, 1966	Oct. 14, 1966
<b>Singapore</b>	Feb. 2, 1968	Oct. 14, 1968	Nov. 13, 1968
<b>Solomon Islands</b>	Nov. 12, 1979	Sep. 8, 1981	Oct. 8, 1981
<b>Somalia</b>	Sep. 27, 1965	Feb. 29, 1968	Mar. 30, 1968
<b>Sri Lanka</b>	Aug. 30, 1967	Oct. 12, 1967	Nov. 11, 1967
<b>St. Lucia</b>	Jun. 4, 1984	Jun. 4, 1984	Jul. 4, 1984 <sup>7</sup>
<b>Sudan</b>	Mar. 15, 1967	Apr. 9, 1973	May 9, 1973
<b>Swaziland</b>	Nov. 3, 1970	Jun. 14, 1971	Jul. 14, 1971 <sup>8</sup>
<b>Sweden</b>	Sep. 25, 1965	Dec. 29, 1966	Jan. 28, 1967
<b>Switzerland</b>	Sep. 22, 1967	May 15, 1968	Jun. 14, 1968
<b>Thailand</b>	Dec. 6, 1985		
<b>Togo</b>	Jan. 24, 1966	Aug. 11, 1967	Sep. 10, 1967
<b>Trinidad and Tobago</b>	Oct. 5, 1966	Jan. 3, 1967	Feb. 2, 1967
<b>Tunisia</b>	May 5, 1965	Jun. 22, 1966	Oct. 14, 1966
<b>Uganda</b>	Jun. 7, 1966	Jun. 7, 1966	Oct. 14, 1966
<b>United Arab Emirates</b>	Dec. 23, 1981	Dec. 23, 1981	Jan. 22, 1982
<b>United Kingdom of Great Britain and Northern Ireland</b>	May 26, 1965	Dec. 19, 1966	Jan. 18, 1967 <sup>9</sup>
<b>United States of America</b>	Aug. 27, 1965	Jun. 10, 1966	Oct. 14, 1966
<b>Western Samoa</b>	Feb. 3, 1978	Apr. 25, 1978	May 25, 1978
<b>Yugoslavia</b>	Mar. 21, 1967	Mar. 21, 1967	Apr. 20, 1967
<b>Zaire</b>	Oct. 29, 1968	Apr. 29, 1970	May 29, 1970
<b>Zambia</b>	Jun. 17, 1970	Jun. 17, 1970	Jul. 17, 1970

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

<sup>5</sup>On 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.

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

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

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

<sup>9</sup>The 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 Nineteenth Annual Meeting on October 10, 1985:

**AC(19)/RES/60 - Approval of the Annual Report**

The Administrative Council

RESOLVES

To approve the 1985 Annual Report on the Operation of the Centre as set forth in the attachment to Document AC/85/3.

**AC(19)/RES/61 - Adoption of Budget for Fiscal Year 1986**

The Administrative Council

RESOLVES

To adopt, for the period July 1, 1985 to June 30, 1986, the budget set forth in paragraph 2 of the Document AC/85/1.

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## Annex 3

# Report and Financial Statements

Expressed in United States dollars

## Statement of Changes in Fund Balance

	For the year ended June 30	
	1986	1985
Contribution of services to Centre by International Bank for Reconstruction and Development .....	\$ 360,733	\$ 256,349
Expenditures on behalf of Centre by International Bank for Reconstruction and Development .....	(360,733)	(256,349)
Excess of contribution over expenditures .....	—	—
Advances to Centre from parties to arbitration proceedings .....	730,997	385,028
Disbursements by Centre for fees and expenses for arbitration proceedings .....	(797,127)	(334,634)
Excess of advances over disbursements .....	(66,130)	50,394
Decrease (Increase) in advances from parties to arbitration proceedings .....	66,130	(50,394)
Change in fund balance .....	\$ —	\$ —

## Statement of Composition of Fund Balance

	June 30, 1986	June 30, 1985
Cash in bank .....	\$ 183,320	\$ 245,121
Advances from parties to arbitration proceedings .....	(179,951)	(246,081)
(Payable) to/receivable from International Bank for Reconstruction and Development .....	(3,369)	960
Fund balance .....	\$ —	\$ —

*continued next page*

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

June 30, 1986 and June 30, 1985

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 \$360,733 and \$256,349 for the years ended June 30, 1986 and 1985, 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	
	1986	1985
Staff personal services .....	\$ 277,230	\$ 183,160
Travel .....	21,897	16,860
Contractual services .....	48,739	48,685
Administrative services and facilities .....	17,913	10,586
	<u>\$ 365,779</u>	<u>\$ 259,291</u>
Less: Reimbursements by Centre from sale of publications and registration fees .....	5,046	2,942
Total .....	<u>\$ 360,733</u>	<u>\$ 256,349</u>

The Centre's expenses which are attributable to arbitration 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 25, 1986

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, 1986 and 1985, and the changes in fund balance for the years then ended, in conformity with generally accepted accounting principles consistently applied 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 <i>(English, French, Spanish)</i>
ICSID/3	List of Contracting States and Other Signatories of the Convention <i>(English, French, Spanish)</i>
ICSID/5/Rev.1	Model Clauses Recording Consent to the Jurisdiction of the International Centre for Settlement of Investment Disputes <i>(English, French, Spanish)</i>
ICSID/8	Contracting States and Actions Taken by Them Pursuant to the Convention <i>(English, French, Spanish)</i>
ICSID/10	List of the Members of the Panels of Conciliators and of Arbitrators <i>(English)</i>
ICSID/11/Rev.1	Additional Facility for the Administration of Conciliation, Arbitration and Fact-Finding Proceedings <i>(English, French, Spanish)</i>
ICSID/12	Explanatory Brochure on the Centre <i>(English, French, Spanish)</i>
ICSID/13	Bibliography on ICSID <i>(English)</i>
ICSID/15	ICSID Basic Documents: Convention, Administrative and Financial Regulations, Institution Rules, Arbitration Rules, Conciliation Rules <i>(English, French, Spanish)</i>
ICSID/16	ICSID Cases: 1972–1984 <i>(English)</i>
	News from ICSID <i>(English–Semi-annual)</i>

## **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 promotion and protection concluded since 1960. This collection is now kept in two loose-leaf volumes which are updated from time to time.

The two publications (\$1,050 for both, plus shipping and handling charges) may be obtained from Oceana Publications, Inc., Dobbs Ferry, N.Y. 10522 USA.

### *ICSID Review - Foreign Investment Law Journal*

ICSID Review is intended to meet the need for material on the law and practice relating to foreign investments, including domestic laws, investment treaties, contractual trends, and the resolution of investment disputes.

*Semi-annual – April and October*

Requests for subscriptions to the ICSID Review (\$40 per year, plus postage charges) should be sent to: Journals Publishing Division, The Johns Hopkins University Press, 701 W. 40th Street, Suite 275, Baltimore, Maryland 21211, USA.

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