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ICSID Reports

Volume 8

The *ICSID Reports* provide the only comprehensive collection of the arbitral awards and decisions given under the auspices of the World Bank's International Centre for the Settlement of Investment Disputes or pursuant to other multilateral or bilateral investment treaties. These decisions make an important contribution to the growing body of jurisprudence on international investment. The series also includes arbitration under the Additional Facility to the ICSID Convention which has increased in recent years, most notably in relation to the North American Free Trade Agreement (NAFTA). The *ICSID Reports* are thus an invaluable tool for practitioners and scholars working in the field of international commercial arbitration. Volume 8 of the *ICSID Reports* brings the series substantially up to date (as at mid-2004) and includes the decisions in *S. D. Myers Inc. v. Canada*, the decision of 28 May 2003 in *CAA and Vivendi Universal v. Argentina*, rulings and decisions in *SGS v. Pakistan* and the decision on jurisdiction in *SGS v. Philippines*.

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ICSID REPORTS

Reports of cases decided under the Convention on the Settlement of
Investment Disputes between States and Nationals of Other States, 1965
and related decisions on international protection of investments

Volume

8

EDITED

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INTRODUCTION

Arbitral tribunals and *ad hoc* committees set up under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States administered by the International Centre for Settlement of Investment Disputes have produced a large number of awards and decisions. In recent years, through the Additional Facility mechanism, their number has increased substantially, and their contribution to both the substance of international investment law and the procedure of international arbitration grows in importance. Chapter 11 arbitration under NAFTA will increasingly contribute its share; so too do the increasing number of *ad hoc* arbitral decisions under bilateral and regional investment treaties. Moreover many of these cases raise vital issues of investment protection and relate to fundamental questions of the relations between national and international law.

Article 48(5) of the ICSID Convention provides that the Centre shall not publish an award without the consent of the parties thereto. In the absence of an official series of reports of these texts, a number have appeared unofficially, from time to time, in a variety of publications in different parts of the world. For those who wish to refer to these awards and decisions in a systematic manner, this diffusion has been a source of difficulty which has only been partially remedied by the provision of selected decisions on the ICSID website. There remains considerable value in collecting and presenting this material in a single publication accompanied by summaries, tables of cases and with a detailed cumulative index. Some of the texts have previously been available only in French or Spanish, and it has been thought desirable to make these available in English.

The novelty and importance of the concepts introduced and applied within ICSID, and more generally in the field of international investment arbitration, fully warrant the ever-growing literature dedicated to them. It is our hope that the present series will encourage even greater use of this developing system.

James Crawford
Karen Lee

Lauterpacht Research Centre for International Law
University of Cambridge

August 2004

EDITORIAL NOTE

The *ICSID Reports* contain decisions rendered by arbitral tribunals and *ad hoc* committees set up within the framework of the Centre established pursuant to the ICSID Convention (including those rendered by ICSID tribunals established pursuant to bilateral investment treaties) and other decisions, whether judicial or arbitral, relating to such proceedings. These are accompanied by a full scholarly apparatus and index.

Volume 1 contains, in addition to the Basic Texts of the ICSID system, decisions in cases commenced during the period 1972 to 1981. Volume 2 contains material relating to proceedings commenced between 1981 and 1983, and Volume 3 contains the first three proceedings commenced in 1984. Volume 4 contains the texts of decisions and awards relating to ICSID cases commenced between 1984 and 1992. Volume 5 contains available texts of decisions and awards for proceedings commenced between 1992 and 2000, and Volume 6 contains those commenced between 1995 and 2001. Volume 7 contains decisions and awards for arbitration proceedings commenced between 1997 and 2002. Volume 8 contains decisions and awards for arbitration proceedings commenced between 1996 and 2002. These cases are printed in chronological order according to the date of the main award or the date of the first reported stage of proceeding. All the proceedings relating to any given case are, so far as possible, assembled together in their own chronological order.

The awards and decisions in these *Reports* are reproduced, to the greatest extent possible, in the form in which they were handed down. Editorial intervention is limited to the introduction of a summary and of a bold-letter rubric at the head of each case. These are followed by the full text of the original decision, if available, or its translation. No attempt has been made to tamper with the texts by purporting to correct any errors or clarify obscurities of expression.

Attempts have been made to obtain the full text of all awards and decisions. Where only excerpts are available these have been reproduced. Any omission of material is indicated either by a series of dots or by the insertion of a sentence in square brackets stating the nature of the passage which has been omitted. Should the full text of a previously excerpted or omitted decision or award subsequently become available it will be published in a later volume in the series.

Bold-letter headings preceding each case indicate the main points of law involved in the decision. These entries are also collected in a digest at the beginning of the volume.

The source of the material in this volume is indicated at the end of each case. Where the material has been published in more than one language, one publication in each language is listed. The language of the original decision is also mentioned.

Various tables are printed at the beginning of each volume: an alphabetical table of cases reported in the volume, a consolidated alphabetical table of all the cases so far reported and a digest of the cases reported in the volume.

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An index (consolidated in each succeeding volume) is published at the end of each volume.

Occasionally, material relating to arbitral proceedings, such as select bibliographies or an article summarizing a decision not yet in the public domain, will be published as an Annex at the end of a volume.

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The Index was prepared by Miss Maureen MacGlashan, CMG and the Tables were prepared by the Editors.

Thanks are due to the Secretary-General and staff of ICSID for their assistance in many ways, including the provision of texts of decisions where this could be done consistent with ICSID rules. Responsibility for the summaries and other contents of this volume remains, however, solely with the Editors.

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