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*ICSID Reports*

*Volume 12*

The *ICSID Reports* provide the only comprehensive published collection of 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, including in particular the North American Free Trade Agreement (NAFTA) and the Energy Charter Treaty (ECT). These decisions, which are fully indexed, make an important contribution to the growing body of jurisprudence on international investment. The *ICSID Reports* are an invaluable tool for practitioners and scholars working in the field of international commercial arbitration or advising foreign investors. Volume 12 of the *ICSID Reports* includes the final award in *Occidental v. Ecuador* together with the English court decisions in that case on non-justiciability, the decision on jurisdiction in *Impregilo v. Pakistan* and the awards in *EnCana v. Ecuador*.

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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  
12

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 (ICSID) 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 both to the substance of international investment law and the procedure of international arbitration grows in importance. Chapter Eleven arbitration under NAFTA will increasingly contribute its share; so too do the increasing number of *ad hoc* arbitral decisions under bilateral and multilateral investment treaties, which are also included in this series. 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, many 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. There is considerable value in collecting and presenting this material in a single publication accompanied by summaries, tables of cases and with a detailed index. Some of the texts have previously been available only in French or Spanish.

James Crawford  
Karen Lee

Lauterpacht Research Centre for International Law  
University of Cambridge

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## 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. Volume 9 contains decisions and awards for proceedings commenced between 1990 and 2003. Volume 10 contains decisions and awards for proceedings commenced between 1998 and 2004. Volume 11 contains those for proceedings commenced between 2000 and 2002 and Volume 12 contains decisions and awards for proceedings commenced between 2001 and 2003. 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 to 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.

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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.

Earlier volumes contained a consolidated index. This has become impossible due to space considerations, and thus from Volume 11 the index is confined to the volume in question. The consolidated index for Volumes 1–10 is to be found at 10 *ICSID Reports* 453.

## ACKNOWLEDGEMENTS

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Summaries were written by Ms Tara Grant, Mr Jonathan Ketcheson, Ms Sarah M. Miller, Ms Kate Parlett, Ms Monique Sasson and Mr Tobias Schaffner. Ms Tara Grant also provided general and secretarial assistance.

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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