
ICSID
REPORTS

9

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

9

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 to 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, also now included in this series. Moreover many of these cases raise vital issues of investment protection and relate to fundamental questions of the relations between national and international law.

Also increasing in frequency are the number of challenges to awards—in the case of ICSID, through the annulment procedure, in other cases through challenges before the courts of the juridical seat of the arbitration. The present volume contains the hitherto unpublished decision of the *ad hoc* Committee in *Amco Asia Corporation v. Republic of Indonesia*, and decisions of the Svea Court of Appeal and the Ontario Court of Appeal in judicial review proceedings: in all three cases the challenge to the award was rejected.

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 is 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.

In addition to the cases referred to above, this volume contains the awards and related decisions in the TV Nova saga, pitting a US citizen, Ronald Lauder, and his Dutch subsidiary company, CME, against the Czech Republic in parallel and overlapping arbitrations: one of these produced an award of some US \$270m in damages, the other exonerated the Czech Republic in relation to the very same dispute.

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May 2005

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, and Volume 9 decisions and awards for proceedings commenced between 1990 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 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.

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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