

## Recent Developments at ICSID

Presentation of

Roberto Dañino

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- **I am pleased to join Bill Slate and Robert Briner in welcoming** you to the 21<sup>st</sup> Joint Colloquium on International Arbitration sponsored by the ICC Court, the AAA and ICSID.
- **My task now is to brief you on developments in ICSID over the past year.** It has been a busy year indeed. Since the last Joint Colloquium in November 2003, ICSID has registered 28 new arbitration cases, almost all of them brought to us under bilateral investment treaties, or BITs. Of the new cases, more than half involve Argentina and other Latin American countries. The respondents in the rest of the cases are fairly evenly divided among African, Asian and European countries. The number of cases currently *pending* at ICSID (84) is about equal to the number of cases *concluded* in ICSID's entire 38-year history. In other words, roughly half of the cases ever brought to ICSID are now underway at the Centre.

- Reflecting the continued increase of the caseload, 35 new ICSID tribunals have been established over the past year. The new tribunals include 58 arbitrators from 23 countries. In line with our efforts to **expand the pool of arbitrators**, more than half of the members of the new tribunals are serving as ICSID arbitrators for the first time. There are still too few **women** among them. We will be continuing to try improve the balance in this respect in the months ahead.
- The past year has also been **a time for ICSID to take stock** and prepare and introduce further needed improvements.
- Thus, we have recently had a **communications assessment**, evaluating the effectiveness of ICSID's publications and outreach activities. Among the recommendations of the assessment that we will be implementing is a major overhaul and upgrading of the ICSID website.
- As many of you know, we had also commissioned a **client survey**, which was concluded last month. The results were impressive. Arbitrators, parties to proceedings and member governments gave ICSID outstanding ratings for customer service, value, the quality of its staff, and the fairness of the ICSID arbitral process.
- Many survey respondents saw **conciliation** as a useful mechanism for the settlement of investment disputes. Other areas identified in the client survey as needing improvement included the **speed** of the registration process and the **transparency** of the proceedings.

- ICSID has already been taking action in these areas. **It is now our practice, on receipt of a request for arbitration, to call the attention of the parties to the alternative of ICSID conciliation.** With our sister institutions, the International Finance Corporation and the Multilateral Investment Guarantee Agency, ICSID is also examining the possibility of the establishment of a World Bank Group **mediation service** for investment disputes.
- Speed and efficiency are linked to **staffing**, which in turn depends on adequate **funding**. In this respect, ICSID is taking steps to strengthen its finances, notably by substantial increases of its administrative fees. We are at the same time increasing the number of staff, particularly support staff, so that the legal staff will have more time for non-administrative chores.
- **Increased transparency and openness** of the ICSID arbitral process, in the sense more rapid publication of ICSID arbitral awards and greater access of third parties, are among the suggestions for change included in the discussion paper that ICSID recently sent to its member countries for their consideration.
- **The discussion paper** reflects the results of a review by the ICSID Secretariat of areas of possible improvement of the framework for ICSID arbitration. In addition to the suggestions just mentioned, the paper proposes new procedures for the expedited consideration of requests for provisional measures and requests for the dismissal of

unmeritorious claims. Also included in the paper is a suggested expansion of the disclosure requirements for ICSID arbitrators.

- The most important possibility raised in the discussion paper is the establishment by ICSID of **a single optional mechanism for the appeal of awards** in investor-State cases. This is a possibility that ICSID may pursue as an alternative to individual appeal mechanisms being created under different treaties by our member countries.
- The possible features of such an ICSID Appeals Facility are outlined in the discussion paper. The discussion paper is **posted on the ICSID website**, with an invitation for all – including, of course, all of you – to contribute comments and suggestions. The process of **pursuing change in this open way is itself an innovation** for us. It will, I hope, strengthen the specific proposals we would aim to send to member countries early next year.
- **Of course, we have continued our publications** program, publishing new issues of the *ICSID Review* and new releases of *Investment Laws of the World* and *Investment Treaties*.
- **ICSID has also begun preparations to host** the 8<sup>th</sup> Biennial Conference of the International Federation of Commercial Arbitration Institutions, or **IFCAI**, in Washington, D.C., on Friday, June 3, 2005. Please mark your calendars!

- In the past year, our very own Antonio Parra was elected both as **Secretary General** of the International Federation of Commercial Arbitration Institutions (ICCA) and as a **Council Member** of the International Federation of Commercial Arbitration Institutions (IFCAI). We are, indeed very proud of Antonio for these achievements.
- Judging from the impressive turnout of participants today, I am looking forward to very lively discussions of our interesting program topics. [I will now hand over to **Bill Slate** for his comments.]