

Sudan	Khartoum Province Court
Swaziland	High Court
Sweden	Ministry of Foreign Affairs
Switzerland	
Argau (AG)	Bezirksgerichtspräsident
Appenzell Ausserrhoden (AR)	Einzelrichter des Obergerichtes
Appenzell Innerrhoden (AI)	Bezirksgerichtspräsident
Basel-Landschaft (BL)	Bezirksgerichtspräsident
Basel-Stadt (BS)	Dreiergericht
Bern (BE)	Gerichtspräsident
Fribourg (FR)	Président du Tribunal de district
Genève (GE)	Tribunal de première instance
Glarus (GL)	Kantonsgerichtspräsidium
Graubünden (GR)	Bezirksgerichtspräsident
Jura (JU)	Cour civile du Tribunal cantonal
Luzern (LU)	Amtsgerichtspräsident
Neuchâtel (NE)	Président du Tribunal de district
Nidwalden (NW)	Rechtsöffnungsrichter
Obwalden (OW)	Kantonsgerichtspräsident
Schaffhausen (SH)	Einzelrichter des Kantonsgerichts
Schwyz (SZ)	Einzelrichter des Bezirksgerichts
Solothurn (SO)	Amtsgerichtspräsident
St. Gallen (SG)	Kreisgerichtspräsident
Thurgau (TG)	Bezirksgerichtspräsident
Ticino (TI)	Giudice di Pace e Pretore
Uri (UR)	Landgerichtspräsident
Valais (VS)	Juge Instructeur
Vaud (VD)	Président du Tribunal d'arrondissement
Zug (ZG)	Kantonsgerichtspräsident
Zurich (ZH)	Einzelrichter des Bezirksgerichts
Togo	Président du Tribunal de Droit Moderne de Première Instance de Lomé
Trinidad and Tobago	High Court
Tunisia	“Tribunal de Première Instance” having jurisdiction in the place where the enforcement is to take place

United Kingdom of Great Britain
and Northern Ireland

Bermuda	Supreme Court of Bermuda
British Virgin Islands	West Indies Associated States Supreme Court
Cayman Islands	Grand Court of the Cayman Islands
England and Wales	The High Court
Falkland Islands (Malvinas)	Supreme Court of the Falkland Islands (Malvinas)
Falkland Islands (Malvinas) Dependencies	Supreme Court of the Falkland Islands (Malvinas) Dependencies
Gibraltar	Supreme Court of Gibraltar
Guernsey (Bailiwick of) Islands of Guernsey, Herm and Jethou	Royal Court sitting as Ordinary Court
Islands of Alderney	Court of Alderney
Island of Sark	Court of the Seneschal of Sark
Isle of Man	The High Court of Justice of the Isle of Man
Jersey (Bailiwick of)	The Royal Court of Jersey
Montserrat	West Indies Associated States Supreme Court
Northern Ireland	The High Court in Northern Ireland
Anguilla	West Indies Associates States Supreme Court
St. Helena	Supreme Court of St. Helena
St. Helena Dependencies	Supreme Court of St. Helena
Scotland	The Court of Session
Turks and Caicos Islands	Supreme Court of the Turks and Caicos Islands

United States of America

Federal District Courts (including each Court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States)

Zambia

High Court

Art. 69 of the
Convention

LEGISLATIVE OR OTHER MEASURES RELATING TO THE CONVENTION

Contracting States have communicated to the Centre the following legislative or other measures taken by them, pursuant to Article 69 of the Convention, to make its provisions effective in their territories:

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Australia	ICSID Implementation Act 1990. (Act No. 107 of 1990)
Austria	Ratifikationsurkunde für das Übereinkommen zur Beilegung von Investitionsstreitigkeiten zwischen Staaten und Angehörigen anderer Staaten. (Off. Gaz. 357, Vol. 99, Sept. 10, 1971, p. 1853)
Belgium	Loi du 17 juillet 1970 portant approbation de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats, faite à Washington le 18 mars 1965. (Off. Gaz. 185, Sept. 24, 1970, p. 9548)
Benin	Ordonnance No. 36/PR/MFAE du 26 août 1966 portant ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Off. Gaz. 17, Sept. 1, 1966, p. 773) Décret No. 445/PR/MFAEP du 28 décembre 1967 portant nomination de conciliateurs et d'arbitres au Centre International pour le Règlement des Différends relatifs aux Investissements. (Off. Gaz. 4, February 14, 1968, p. 161)

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Botswana	The Settlement of Investment Disputes (Convention) Act, 1970. (Act No. 65 of 1970)
Burkina Faso	Ordonnance No. 17/PRES/DEV.T/AET du 31 mars 1966 portant ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats conclue sous les auspices de la Banque Internationale pour la Reconstruction et le Développement.
Cameroon	Loi No. 66/LF/13 du 30 août 1966 autorisant le Président de la République Fédérale à ratifier la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Off. Gaz. Sept. 1, 1966, p. 93) Décret No. 66/DF/454 du 30 août 1966 portant ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Off. Gaz. December 1, 1966, p. 1250) Loi 75-18 du 8 décembre 1975 relative à la reconnaissance des sentences arbitrales. (Off. Gaz. 6, Suppl., December 15, 1975, p. 234)
Chad	Loi No. 6 du 8 janvier 1966 portant approbation de la Convention. Décret No. 15/PR du 21 janvier 1966 portant ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats.

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Comoros	Décret No. 78/0073/PR portant ratification de l'adhésion de la R.F.I. des Comores à la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats (CIRDI).
Congo, People's Republic of the	Loi No. 69/65 autorisant la ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats.
Côte d'Ivoire	Loi No. 65-237 du 26 juin 1965 autorisant le Président de la République à ratifier la Convention passée avec la Banque Internationale pour la Reconstruction et le Développement pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Off. Gaz. 35, July 15, 1965, p. 770) Décret No. 65-238 du 28 juin 1965 portant ratification de la Convention passée avec la Banque Internationale pour la Reconstruction et le Développement pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats.
Cyprus	Council of Ministers Decision No. 5331 of January 20, 1966. (Off. Gaz. 532, October 27, 1966) Law No. 64 of 1966 on approval of Convention by the House of Representatives. (Off. Gaz. 532, October 27, 1966)
Denmark	Act No. 466 of December 15, 1967, on Recognition and Execution of Orders Concerning Certain International Investment Disputes.

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Egypt, Arab Republic of	Decree-Law No. 90 of November 7, 1971, approving the accession of the Arab Republic of Egypt to the International Convention. (Off. Gaz. November 11, 1971)
El Salvador	Acuerdo No. 349 de 19 julio 1982. Decreto No. 111 de 7 diciembre 1982. (Off. Gaz. 230, Vol. 277, December 14, 1982)
Finland	Law No. 74/69 of December 27, 1968 containing the approval of the Convention. (Off. Gaz. No. 1-8, 1969, p. 7) Decree No. 75/69 of January 24, 1969, containing regulations for the implementation of the Convention.
France	Loi No. 67-551 du 8 juillet 1967 autorisant la ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats, du 18 mars 1965. (Off. Gaz. July 11, 1967, p. 6931)
Gabon	Loi No. 19/65 du 20 décembre 1965 portant ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats.
Germany	Gesetz zu dem Ubereinkommen vom 18 März 1965 zur Beilegung von Investitionsstreitigkeiten zwischen Staaten und Angehörigen anderer Staaten vom 25 Februar 1969. (Off. Gaz. 12, Part II, March 4, 1969, p. 369)

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Greece	Necessity Law No. 608, November 11, 1968.
Guinea	Loi No. 12/AN-68, portant ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. Décret No. 409/PRG du 28 sept. 1968 promulgant une loi de l'Assemblée Nationale portant ratification par la République de Guinée de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats.
Honduras	Decreto No. 41-88. (Off. Gaz. August 4, 1988)
Iceland	Law authorizing the Government to become a party to an International Convention on the Settlement of Investment Disputes Between States and Nationals of Other States. (Off. Gaz. A, 74, 1966)
Indonesia	Law No. 5 of June 29, 1968. (Off. Gaz. 32, 1968)
Ireland	Arbitration Act, 1980 [covering, <u>inter alia</u> , the ICSID Convention]. (Act No. 7 of 1980) Arbitration Act, 1980 (Part IV) (Commencement) Order, 1980. (S.I. No. 356 of 1980) International Centre for Settlement of Investment Disputes (Designation and Immunities) Order, 1980. (S.I. No. 339 of 1980)

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Italy	Legge 10 maggio 1970, n. 1093 Ratifica ed esecuzione della Convenzione per il regolamento delle Controversie relative agli investimenti tra Stati e cittadini di altri Stati, adottata a Washington il 18 marzo 1965. (Off. Gaz. 8, January 12, 1971, p. 155)
Jamaica	Investment Disputes Awards (Enforcement) Act, 1966 (Act 28 of August 29, 1966). (Off. Gaz. XC, 18 February 16, 1967, p. 60) Investment Disputes Awards (Enforcement) Act, 1966 (Appointed Day) Notice. (Notice No. 45 of February 7, 1967) (Off. Gaz. XC, 18 February 16, 1967, p. 60) Bauxite (Production Levy) Act, 1974. (Act 19 of 1974)
Jordan	Royal Decree granted to Decision No. 1196 of Council of Ministers of May 17, 1972, ratifying the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States.
Kenya	The Investment Disputes Convention Act of 1966. (Act 31 of November 22, 1966)
Korea, Republic of	Promulgation of the Convention (as Treaty No. 234) (Off. Gaz. Extr. No. 4580, February 21, 1967, p. 361)
Kuwait	Law Decree No. 1 of January 14, 1979.
Lesotho	Arbitration International Investment (Disputes) Act (Act 23 of 1974). (Off. Gaz. 10, Suppl. 2, March 14, 1975)

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Luxembourg	Loi du 8 avril 1970 portant approbation de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats, en date à Washington, du 18 mars 1965. (Off. Gaz. A, No. 25, May 9, 1970, p. 536)
Malawi	Investment Disputes (Enforcement of Awards) Act, 1966 (Act 46 of December 29, 1966). (Off. Gaz. Suppl., January 10, 1967)
Malaysia	Convention on the Settlement of Investment Disputes Act, 1966. (Act of Parliament 14 of 1966) Notification on entry into force of the Convention on the Settlement of Investment Disputes Act, 1966. (Notification No. 96 of March 10, 1966) Arbitration (Amendment) Act, 1980. (Act A 478 of 1980)
Mali	Décret No. 09/P-CMLN portant promulgation de l'Ordonnance No. 77-63/CMLN du 11 novembre 1977. (Off. Gaz. 536, January 6, 1978) Ordonnance No. 77-63/CMLN portant approbation de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Off. Gaz. 536, January 6, 1978)
Mauritania	Loi No. 65.135 du 20 juillet 1965 autorisant le Président de la République à ratifier la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Off. Gaz. 166/167, Sept. 15, 1965, p. 301)

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Mauritius	Investment Disputes (Enforcement of Awards) Act, 1969. (Act No. 12 of April 24, 1969) Proclamation to fix the date of the coming into force of the Investment Disputes (Enforcement of Awards) Act, 1969. (Proclamation No. 6, June 25, 1969)
Morocco	Décret royal No. 564-65 du 31 octobre 1966 portant ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Off. Gaz. 2820 No. 16, 1966, pp. 1288, 1332)
Netherlands	Law of July 21, 1966, containing the approval of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States. (Off. Gaz. 339, 1966, p. 802)
New Zealand	Arbitration (International Investment Disputes) Act, 1979. (Act No. 39 of 1979) Arbitration (International Investment Disputes) Amendment Act, 2000. (Act No. 52 of 2000)
Niger	Loi No. 68-06 du 12 février 1968 autorisant le Président de la République à ratifier la Convention internationale pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats, signée par le plénipotentiaire du Niger à Washington le 23 août 1965. (Off. Gaz. 4, February 15, 1968, p. 119)
Nigeria	Decree No. 49 of 1967, International Centre for Settlement of Investment Disputes (Enforcement of Awards). (Off. Gaz. Extr. 105, Vol. 54, No. 30, 1967, p. A255)

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Norway	Act of June 8, 1967, relating to the implementation of the Convention of March 18, 1965 on the Settlement of Investment Disputes Between States and Nationals of Other States. (Off. Gaz. I (1967), p. 23, reprinted Off. Gaz. II (1967), p. 415)
Papua New Guinea	Investment Disputes Convention Act, 1978. (Act No. 48 of 1978)
Portugal	Decree-Law No. 15/84. (Off. Gaz. No. 79, April 3, 1984)
Romania	Decret al Consillului de Stat privind ratificarea Conventiei pentru reglementar differend relative la investitii intre State si persoane ale allor State, in cheiata la Washington la 18 martie 1965. (Off. Gaz. 56 June 7, 1975, p. 3)
Rwanda	Décret No. 20/79 du 16 juillet 1979.
Saudi Arabia	Council of Ministers Resolution No. 372, 15/3/1394 A.H. Royal Decree No. M/8, 22/3/1394 A.H.
Senegal	Loi No. 67-14 du 28 février 1967 autorisant le Président de la République à ratifier la Convention pour le règlement des différends relatifs aux investissements entre états et ressortissants d'autres Etats. (Off. Gaz. 3888, April 17, 1967) Décret No. 67-517 du 19 mai 1967 ordonnant la publication au J.O. de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Off. Gaz. 3897, June 10, 1967)

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Singapore	Arbitration (International Investment Disputes) Act (Singapore Statutes, 1970 Rev. Ed., Act No. 18, Ch. 17, Sept. 10, 1968, p. 257)
Somalia	Law No. 11 of February 8, 1967 enforcing the Convention.
Sri Lanka	Greater Colombo Economic Commission Law, No. 4 of 1978.
Sudan	Republican Decree No. 121 of 1972, ratifying the Convention.
Sweden	Act on Recognition and Execution of Awards Concerning Certain International Investment Disputes. (Act No. 735 of December 16, 1966)
Switzerland	Arrêté fédéral approuvant la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Recueil des lois féd., 32, August 9, 1968, p. 1021)
Togo	Ordonnance No. 32 du 25 juillet 1967 portant ratification par la République togolaise de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats.
Trinidad and Tobago	Investment Disputes Awards (Enforcement) Act, 1968. (Act No. 23 of August 13, 1968)

<u>Contracting State</u>	<u>Title of Legislation (Citation)</u>
Tunisia	Loi No. 66-23 du 3 mai 1966 portant ratification de la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats. (Off. Gaz. May 3-6, 1966, p. 723)
United Kingdom	<p data-bbox="641 493 1438 567">Arbitration (International Investment Disputes) Act 1966. (1966 c. 41)</p> <p data-bbox="641 609 1438 714">The Arbitration (International Investment Disputes) Act 1966 (Commencement) Order 1966. (Statutory Instruments, 1966, No. 1597, December 21, 1966)</p> <p data-bbox="641 756 1438 861">The Arbitration (International Investment Disputes) Act 1966 (Application to Colonies etc.) Order 1967. (Statutory Instruments, 1967, No. 159, February 10, 1967)</p> <p data-bbox="641 903 1438 1008">The Arbitration (International Investment Disputes) (Guernsey) Order 1968. (Statutory Instruments, 1968, No. 1199, July 26, 1968)</p> <p data-bbox="641 1050 1438 1155">The Arbitration (International Investment Disputes) (Jersey) Order 1979. (Statutory Instruments, 1979, No. 572, May 23, 1979)</p> <p data-bbox="641 1197 1438 1270">The Arbitration (International Investment Disputes) Act 1983 (an Act of Tynwald).</p>
United States	<p data-bbox="641 1333 1438 1480">Convention on the Settlement of Investment Disputes Act of 1966. (Pub.L. 89-532; 80 Stat. 344; 22 U.S.C. sec. 1650-1650a, August 11, 1966)</p> <p data-bbox="641 1522 1438 1665">Executive Order designating certain Public International Organizations entitled to enjoy certain privileges, exemptions and immunities. (Exec. Order 11966; 42 Fed. Reg. 4331 (1977))</p>

Contracting State

Title of Legislation (Citation)

Zambia

Investment Disputes Convention Act, 1970 (Act No. 18 of 1970).
(Off. Gaz. Suppl. April 17, 1970, p. 99)

ANNEX 21

International Centre for Settlement of Investment Disputes (ICSID)

Search ICSID Membership

Click on the respective tab below for information on any measures taken for the purpose of the Convention or any designations made to the ICSID Panels by the selected member country.

Designations and Notifications

Members of the ICSID Panels

China

Entry into Force

The ICSID Convention entered into force for China on February 06, 1993.

Notifications on Exclusion of Territories (Article 70)

None

Designations of Constituent Subdivisions or Agencies and Notifications Concerning the Approval by the Contracting State of Their Consent to ICSID Jurisdiction (Article 25(1) and (3))

None

Note: For information of any *ad hoc* designation or notification made by this Contracting State pursuant to Article 25(1) and (3) of the Convention, please contact the Secretariat.

Notifications Concerning a Class or Classes of Disputes Which the Contracting State Would or Would Not Consider Submitting to the Jurisdiction of the Centre (Article 25(4))

Date of Notification	Text of Notification
January 07, 1993	"[P]ursuant to Article 25(4) of the Convention, the Chinese Government would only consider submitting to the jurisdiction of the International Centre for Settlement of Investment Disputes disputes over compensation resulting from expropriation and nationalization."

Designations of Competent Courts or Other Authorities for the Purpose of Recognizing and Enforcing Awards Rendered Pursuant to the Convention (Article 54(2))

None

Legislative or Other Measures Adopted by the Contracting State to Make the Convention Effective in Its Territory (Article 69)

None communicated to the Centre.

ANNEX 22

**СОГЛАШЕНИЕ
МЕЖДУ ПРАВИТЕЛЬСТВОМ РОССИЙСКОЙ ФЕДЕРАЦИИ
И ПРАВИТЕЛЬСТВОМ КИТАЙСКОЙ НАРОДНОЙ РЕСПУБЛИКИ О ПООЩРЕНИИ
И ВЗАИМНОЙ ЗАЩИТЕ КАПИТАЛОВЛОЖЕНИЙ**

(Пекин, 9 ноября 2006 года)

Правительство Российской Федерации и Правительство Китайской Народной Республики, именуемые в дальнейшем Договаривающимися Сторонами, намереваясь создать благоприятные условия для капиталовложений инвесторов одной Договаривающейся Стороны на территории другой Договаривающейся Стороны, признавая, что взаимное привлечение, поощрение и защита таких капиталовложений приведет к стимулированию деловой инициативы инвесторов и повысит благосостояние обоих государств, желая активизировать сотрудничество обоих государств на основе равенства и взаимной выгоды, согласились о нижеследующем:

Статья 1

Определения

Для целей настоящего Соглашения:

1. Понятие "капиталовложение" означает все виды имущественных ценностей, которые вкладываются инвесторами одной Договаривающейся Стороны на территории другой Договаривающейся Стороны в соответствии с законами и иными нормативными правовыми актами последней Договаривающейся Стороны, и в частности, хотя не исключительно, включают в себя:

- а) движимое и недвижимое имущество, а также любые имущественные права;
- б) акции, вклады и иные формы участия в капитале коммерческих организаций;
- в) права требования по денежным средствам или по договорам, имеющим экономическую ценность и связанным с капиталовложениями;
- г) исключительные права на объекты интеллектуальной собственности, в частности авторские права, патенты, товарные знаки, фирменные наименования, технологии и технические процессы, ноу-хау и устойчивые деловые связи;
- д) права на осуществление предпринимательской деятельности, предоставляемые на основе законодательства или договоров, разрешенных в соответствии с законодательством, в частности, связанные с разведкой, разработкой, добычей и эксплуатацией природных ресурсов.

Никакое изменение формы, в которой капиталовложения осуществлены, не влияет на их квалификацию в качестве капиталовложений, если такое изменение не противоречит действующим законам и иным нормативным правовым актам Договаривающейся Стороны, на территории которой капиталовложения осуществлены.

2. Понятие "инвестор" означает:

- а) любое физическое лицо, являющееся гражданином государства любой из Договаривающихся Сторон в соответствии с законами и иными нормативными правовыми актами этой Договаривающейся Стороны;
- б) любое юридическое лицо, включая компании, ассоциации, товарищества и иные организации, созданное или учрежденное в соответствии с законами и иными нормативными правовыми актами любой Договаривающейся Стороны и имеющее свое местонахождение на территории этой Договаривающейся Стороны.

3. Понятие "доходы" означает средства, получаемые от капиталовложений, и в частности, хотя не исключительно, прибыль, дивиденды, проценты, доходы от капитала, роялти и другие вознаграждения, связанные с капиталовложениями.

4. Понятие "деятельность" означает владение, пользование и (или) распоряжение капиталовложениями.

5. Понятие "территория Договаривающейся Стороны" означает:

территорию Российской Федерации и территорию Китайской Народной Республики соответственно;

морские районы, примыкающие к внешним пределам территориального моря каждой из указанных территорий, над которыми соответствующая Договаривающаяся Сторона осуществляет в соответствии с международным правом свои суверенные права или юрисдикцию в целях разведки, добычи, эксплуатации и сохранения природных ресурсов таких районов.

6. Понятие "законы и иные нормативные правовые акты Договаривающейся Стороны" означает законы и иные нормативные правовые акты Российской Федерации или законы и иные нормативные правовые акты Китайской Народной Республики.

Поощрение и защита капиталовложений

1. Каждая Договаривающаяся Сторона стремится создавать благоприятные условия инвесторам другой Договаривающейся Стороны для осуществления капиталовложений на своей территории и допускает такие капиталовложения в соответствии со своими законами и иными нормативными правовыми актами.

2. Каждая Договаривающаяся Сторона обеспечивает в соответствии со своими законами и иными нормативными правовыми актами полную защиту на своей территории капиталовложений инвесторов другой Договаривающейся Стороны.

3. В соответствии со своими законами и иными нормативными правовыми актами каждая Договаривающаяся Сторона доброжелательно рассматривает возможность выдачи виз и разрешений на работу гражданам другой Договаривающейся Стороны, осуществляющим деятельность, связанную с капиталовложениями, осуществленными на территории первой Договаривающейся Стороны.

Статья 3

Режим капиталовложений

1. Каждая Договаривающаяся Сторона обеспечивает на своей территории справедливый режим капиталовложениям инвесторов другой Договаривающейся Стороны и деятельности в связи с такими капиталовложениями.

В соответствии со своими законами и иными нормативными правовыми актами ни одна из Договаривающихся Сторон не должна применять какие-либо дискриминационные меры, которые могут препятствовать деятельности в связи с капиталовложениями.

2. В соответствии со своими законами и иными нормативными правовыми актами каждая Договаривающаяся Сторона предоставляет капиталовложениям и деятельности инвесторов другой Договаривающейся Стороны в связи с такими капиталовложениями режим не менее благоприятный, чем режим, который предоставляется капиталовложениям, а также деятельности в связи с такими капиталовложениями ее собственных инвесторов.

3. Ни одна из Договаривающихся Сторон не должна предоставлять капиталовложениям и деятельности инвесторов другой Договаривающейся Стороны в связи с такими капиталовложениями менее благоприятный режим, чем тот, который предоставляется капиталовложениям, а также деятельности в связи с такими капиталовложениями инвесторов любого третьего государства.

4. Положения пункта 3 настоящей статьи не должны толковаться как обязывающие одну Договаривающуюся Сторону распространять на капиталовложения инвесторов другой Договаривающейся Стороны преимущества любого режима, преференции или привилегии, предоставляемые в силу:

а) соглашений, устанавливающих зону свободной торговли, таможенные союзы, экономические союзы, валютные союзы или схожие институты, либо промежуточных соглашений, ведущих к образованию таких союзов или институтов;

б) международных соглашений или международных договоренностей по вопросам налогообложения;

в) соглашений Российской Федерации с государствами, ранее входившими в состав бывшего Союза Советских Социалистических Республик, по вопросам капиталовложений, как они понимаются в соответствии с настоящим Соглашением.

Соглашения, указанные в настоящем пункте, не должны противоречить обязательствам первой Договаривающейся Стороны, принятым ею в рамках Всемирной торговой организации (далее - ВТО), в отношении вопросов, охватываемых соглашениями ВТО.

5. Без ущерба для положений статей 4, 5 и 9 настоящего Соглашения Договаривающиеся Стороны могут предоставлять режим не более благоприятный, чем режим, который они предоставляют в соответствии с многосторонними договоренностями, касающимися режима капиталовложений, в которых участвуют обе Договаривающиеся Стороны.

Статья 4

Экспроприация

1. Ни одна из Договаривающихся Сторон не должна на своей территории подвергать мерам, равносильным по последствиям экспроприации или национализации (далее - экспроприация), капиталовложения инвесторов другой Договаривающейся Стороны если только указанные меры не предпринимаются в общественных интересах и не отвечают всем следующим условиям:

а) осуществляются в соответствии с процедурой, предусмотренной национальным законодательством;

б) не являются дискриминационными;

в) сопровождаются выплатой компенсации.

2. Компенсация, указанная в пункте 1 настоящей статьи, должна соответствовать рыночной стоимости экспроприруемых капиталовложений, рассчитанной на дату, непосредственно предшествующую экспроприации, либо на дату, когда официально стало известно о предстоящей экспроприации, в зависимости от того, какое из событий наступило ранее. Рыночная стоимость должна определяться в соответствии с обычаями делового оборота. Компенсация должна включать в себя проценты, исчисляемые с даты экспроприации до даты выплаты по ставке ЛИБОР по шестимесячным долларовым кредитам. Компенсация выплачивается без задержки в любой свободно конвертируемой валюте.

Статья 5

Возмещение ущерба

Инвесторам одной Договаривающейся Стороны, капиталовложениям которых нанесен ущерб на территории другой Договаривающейся Стороны в результате войны, гражданских беспорядков, введения чрезвычайного положения или иных подобных ситуаций, предоставляется в отношении реституции, возмещения, компенсации или других видов урегулирования режим, наиболее благоприятный из тех, которые последняя Договаривающаяся Сторона предоставляет при аналогичных обстоятельствах своим собственным инвесторам или инвесторам третьего государства в отношении мер, которые принимаются ею в связи с таким ущербом.

Статья 6

Перевод платежей

1. Каждая Договаривающаяся Сторона в соответствии со своими законами и иными нормативными правовыми актами гарантирует инвесторам другой Договаривающейся Стороны после выполнения ими всех налоговых обязанностей беспрепятственный перевод за границу платежей в связи с их капиталовложениями, осуществленными на территории первой Договаривающейся Стороны, в частности:

а) доходов, определенных в статье 1 настоящего Соглашения;

б) средств, полученных в связи с частичной или полной продажей либо ликвидацией капиталовложений;

в) средств, выплачиваемых в погашение займов и кредитов;

г) заработной платы, получаемой гражданами государства другой Договаривающейся Стороны, которые работают в связи с капиталовложением на территории государства первой Договаривающейся Стороны;

д) платежей, вытекающих из процедуры разрешения инвестиционного спора в соответствии со статьей 9 настоящего Соглашения;

е) компенсации, предусмотренной в статьях 4 и 5 настоящего Соглашения.

2. Платежи, указанные в пункте 1 настоящей статьи, могут быть свободно переведены в любую свободно конвертируемую валюту в соответствии с законами и иными нормативными правовыми актами Договаривающейся Стороны, на территории которой капиталовложения были осуществлены, по рыночному обменному курсу, применяемому на дату перевода.

3. Переводы платежей осуществляются без задержки в свободно конвертируемой валюте в соответствии с валютными законами и иными нормативными правовыми актами государства Договаривающейся Стороны, на территории которой капиталовложения были осуществлены.

Статья 7

Суброгация

1. Если одна Договаривающаяся Сторона предоставляет своему инвестору финансовую гарантию от некоммерческих рисков в отношении капиталовложений, осуществленных на территории другой Договаривающейся Стороны, и производит платеж этому инвестору в соответствии с такой гарантией, другая Договаривающаяся Сторона признает приобретение в соответствии с законом или путем заключения сделок в порядке суброгации всех прав требования и иных прав указанного инвестора первой Договаривающейся Стороной.

2. Однако права требования и иные права не должны превышать по своему объему принадлежавшие такому инвестору права требования и иные права, переданные им в порядке суброгации, а также не должны нарушать приобретенные другой Договаривающейся Стороной права требования и иные права такого инвестора.

Разрешение споров между Договаривающимися Сторонами

1. Любой спор между Договаривающимися Сторонами касательно толкования или применения настоящего Соглашения разрешается по возможности путем консультаций по дипломатическим каналам.

2. Если способом, указанным в пункте 1 настоящей статьи, спор не может быть разрешен в течение шести месяцев, то он по просьбе любой из Договаривающихся Сторон должен быть передан на рассмотрение третейского суда *ad hoc*.

3. Такой третейский суд состоит из трех третейских судей. В течение двух месяцев с даты получения письменного уведомления с просьбой о третейском разбирательстве каждая из Договаривающихся Сторон должна назначить по одному члену третейского суда. Два указанных члена третейского суда должны в течение следующих двух месяцев совместно избрать председателем третейского суда гражданина третьего государства, кандидатура которого была одобрена обеими Договаривающимися Сторонами.

4. Если третейский суд не был создан в течение четырех месяцев с даты получения письменного уведомления с просьбой о третейском разбирательстве, любая из Договаривающихся Сторон может при отсутствии какой-либо иной договоренности пригласить председателя Международного Суда произвести необходимые назначения. Если председатель Международного Суда является гражданином государства одной из Договаривающихся Сторон или по другим причинам не может выполнить указанные функции, то произвести необходимые назначения предлагается следующему за ним по старшинству члену Международного Суда, который не является гражданином государства ни одной из Договаривающихся Сторон, и не существует других причин, вследствие которых он не может выполнить указанные функции.

5. Третейский суд определяет свой регламент самостоятельно. Третейский суд выносит свое решение в соответствии с положениями настоящего Соглашения и нормами и принципами международного права, признаваемыми обеими Договаривающимися Сторонами.

6. Третейский суд выносит свое решение большинством голосов. Такое решение является окончательным и обязательным для обеих Договаривающихся Сторон. По требованию одной из Договаривающихся Сторон третейский суд должен объяснить причины своего решения.

7. Каждая Договаривающаяся Сторона несет расходы, связанные с деятельностью назначенного ею члена третейского суда и со своим представительством в третейском разбирательстве. Расходы, связанные с деятельностью председателя третейского суда, а также прочие расходы третейского суда Договаривающиеся Стороны несут в равных долях.

Статья 9

Разрешение споров между одной Договаривающейся Стороной и инвестором другой Договаривающейся Стороны

1. Любые споры между одной Договаривающейся Стороной и инвестором другой Договаривающейся Стороны, возникающие в связи с капиталовложениями, разрешаются по возможности в ходе переговоров.

2. Если спор не может быть разрешен в ходе переговоров в течение шести месяцев с даты его возникновения, то он может быть передан на рассмотрение:

а) в компетентный суд Договаривающейся Стороны, являющейся стороной в споре;

б) в Международный центр по урегулированию инвестиционных споров (МЦУИС), созданный в соответствии с Конвенцией об урегулировании инвестиционных споров между государствами и физическими или юридическими лицами других государств, подписанной в г. Вашингтоне 18 марта 1965 г. (при условии, что она вступила в силу для обеих Договаривающихся Сторон), или в соответствии с Дополнительными правилами МЦУИС (в случае, если Конвенция не вступила в силу для любой из Договаривающихся Сторон);

в) в арбитражный суд *ad hoc* в соответствии с Арбитражным регламентом Комиссии Организации Объединенных Наций по праву международной торговли (ЮНСИТРАЛ).

3. Когда инвестор передает спор на рассмотрение компетентного суда Договаривающейся Стороны, являющейся стороной спора, МЦУИС или арбитража *ad hoc*, выбор одной из трех процедур является окончательным.

4. Арбитражное решение должно основываться на:

- положениях настоящего Соглашения;

- законах и иных нормативных правовых актов той Договаривающейся Стороны, на территории которой были осуществлены капиталовложения, включая коллизионные нормы;

- общепризнанных принципах и нормах международного права.

5. Арбитражное решение является окончательным и обязательным для обеих сторон спора. Каждая Договаривающаяся Сторона обязуется обеспечивать выполнение такого решения в соответствии со своим законами и иными нормативными правовыми актами. 652

Статья 10

Иные обязательства

Если положения законов или иных нормативных правовых актов государства любой из Договаривающихся Сторон либо обязательства по международным договорам, которые действуют в настоящее время или будут заключены между государствами Договаривающихся Сторон в будущем в дополнение к настоящему Соглашению, содержат положения, предоставляющие более благоприятный режим в отношении капиталовложений инвесторов другой Договаривающейся Стороны, чем закрепленный в настоящем Соглашении, то такие положения применяются в части более благоприятной для инвестора.

Статья 11

Применение

1. Настоящее Соглашение применяется ко всем капиталовложениям, осуществленным инвесторами одной из Договаривающихся Сторон на территории государства другой Договаривающейся Стороны начиная с 1 января 1985 г., но не применяется к спорам, возникшим до вступления в силу настоящего Соглашения.

2. Каждая Договаривающаяся Сторона соблюдает обязательства, которые она взяла на себя в отношении капиталовложений инвесторов другой Договаривающейся Стороны по настоящему Соглашению.

Статья 12

Консультации

Договаривающиеся Стороны по просьбе любой из них проводят консультации по вопросам, касающимся толкования или применения настоящего Соглашения. В случае, если любая из Договаривающихся Сторон обращается с просьбой о проведении таких консультаций, другая Договаривающаяся Сторона должна дать незамедлительный ответ.

Статья 13

Вступление в силу, срок действия и прекращение действия

1. Настоящее Соглашение вступает в силу с первого числа месяца, следующего за датой, когда обе Договаривающиеся Стороны уведомили друг друга в письменной форме о выполнении ими соответствующих внутригосударственных процедур, необходимых для вступления настоящего Соглашения в силу.

2. Настоящее Соглашение остается в силе в течение десяти лет. По окончании этого срока его действие автоматически продлевается на очередные пятилетние сроки, если ни одна из Договаривающихся Сторон письменно не уведомит другую Договаривающуюся Сторону по крайней мере за двенадцать месяцев до истечения соответствующего пятилетнего срока о намерении прекратить действие настоящего Соглашения.

3. В отношении капиталовложений, осуществленных до даты прекращения действия настоящего Соглашения, положения статей 1 - 12 настоящего Соглашения остаются в силе в течение последующих десяти лет после даты прекращения действия настоящего Соглашения.

4. Соглашение о поощрении и взаимной защите капиталовложений между Правительством Союза Советских Социалистических Республик и Правительством Китайской Народной Республики, подписанное 21 июля 1990 г., автоматически прекращает свое действие применительно к отношениям между Российской Федерацией и Китайской Народной Республикой с даты вступления в силу настоящего Соглашения.

5. Настоящее Соглашение дополняется Протоколом, являющимся неотъемлемой частью настоящего Соглашения.

В удостоверение чего нижеподписавшиеся, должным образом уполномоченные на то своими правительствами, подписали настоящее Соглашение.

Совершено в г. Пекине 9 ноября 2006 г. в двух экземплярах, каждый на русском, китайском и английском языках, причем все тексты имеют одинаковую силу. В случае разногласий при толковании используется текст на английском языке.

**ПРОТОКОЛ
К СОГЛАШЕНИЮ МЕЖДУ ПРАВИТЕЛЬСТВОМ РОССИЙСКОЙ ФЕДЕРАЦИИ
И ПРАВИТЕЛЬСТВОМ КИТАЙСКОЙ НАРОДНОЙ РЕСПУБЛИКИ О ПООЩРЕНИИ
И ВЗАИМНОЙ ЗАЩИТЕ КАПИТАЛОВЛОЖЕНИЙ**

(Пекин, 9 ноября 2006 года)

Подписывая Соглашение о поощрении и взаимной защите капиталовложений между Правительством Российской Федерации и Правительством Китайской Народной Республики, именуемое в дальнейшем Соглашением, уполномоченные представители согласовали следующие положения, которые являются неотъемлемой частью Соглашения:

1. В случае, если иное не установлено Договаривающимися Сторонами, действие Соглашения не распространяется на Специальный административный район Китайской Народной Республики Гонконг и на Специальный административный район Китайской Народной Республики Макао.

2. Китайская Сторона принимает во внимание, что в отношении пункта 5 статьи 3 Соглашения Российская Сторона считает, что Соглашение Всемирной торговой организации по торговле услугами подпадает в сферу действия понятия "многосторонние договоренности, касающиеся режима капиталовложений".

3. Перед передачей спора, указанного в статье 9 Соглашения, в институты, предусмотренные подпунктами "б" и "в" пункта 2 указанной статьи, Договаривающаяся Сторона, участвующая в споре, может обязать соответствующего инвестора пройти внутреннюю процедуру административного рассмотрения, предусмотренную законами и иными нормативными правовыми актами этой Договаривающейся Стороны. Такие внутренние процедуры административного рассмотрения:

а) применяются на основе режима наиболее благоприятствуемой нации;

б) в любом случае не должны занимать более 90 дней с даты, когда орган по административному рассмотрению принимает заявление инвестора о применении процедуры административного рассмотрения. Если орган по административному рассмотрению не принимает указанное заявление или не отвечает на него в течение 90 дней с даты его принятия, соответствующий инвестор имеет право передать спор в институты, указанные в подпунктах "б" и "в" пункта 2 статьи 9 Соглашения;

в) не препятствуют передаче инвестором спора на рассмотрение Международного центра по урегулированию инвестиционных споров или арбитража ad hoc в соответствии с положениями подпунктов "б" и "в" пункта 2 статьи 9 Соглашения;

г) не замещают собой арбитражных процедур или институтов, указанных в подпунктах "б" и "в" пункта 2 статьи 9 Соглашения.

В удостоверение чего нижеподписавшиеся, должным образом уполномоченные на то своими правительствами, подписали настоящий Протокол.

Совершено в г. Пекине 9 ноября 2006 г. в двух экземплярах, каждый на русском, китайском и английском языках, причем все тексты имеют одинаковую силу. В случае разногласий при толковании используется текст на английском языке.

(Подписи)

**AGREEMENT
BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION
AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS**

(Beijing, 9.XI.2006)

The Government of the Russian Federation and the Government of the People's Republic of China (hereinafter referred to as the Contracting Parties),

Intending to create favorable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party;
Recognizing that the reciprocal encouragement, promotion and protection of such investments will be conducive to stimulating business initiative of the investors and will increase prosperity in both States;
Desiring to intensify the cooperation of both States on the basis of equality and mutual benefits;
Have agreed as follows:

Article 1

Definitions

For the purpose of this Agreement,

1. The term "investment" means every kind of asset invested by investors of one Contracting Party in accordance with the laws and regulations of the other Contracting Party in the territory of the latter, and in particularly, though not exclusively, includes:

- a) movable and immovable property as well as any property rights;
- b) shares, stocks and any other kind of participation in the capital of commercial organizations;
- c) claims to money or to any other performance having an economic value associated with an investment;
- d) intellectual property rights, in particularly copyrights, patents, trade-marks, trade-names, technology and technical process, know-how and good-will;
- e) business concessions conferred by law or under contract permitted by law, including concessions to search for, cultivate, extract or exploit natural resources.

Any change in the form in which assets are invested does not affect their character as investments if such change does not contradict the laws and regulations of the Contracting Party in which territory the investments were made.

2. The term "investor" means:

- a) natural persons who have nationality of the State of either Contracting Party in accordance with the laws and regulations of that Contracting Party;
- b) legal entities, including companies, associations, partnerships and other organizations, established or constituted under the laws and regulations of either Contracting Party and having their seats in the territory of that Contracting Party.

3. The term "return" means the amounts yielded from investments, in particular though not exclusive including profits, dividends, interests, capital gains, royalties and other fees related to investments.

4. The term "activities" means the management, maintenance, use, enjoyment and disposal of admitted investment.

5. The term "territory of the Contracting Party" means:

- the territory of the Russian Federation and the territory of the People's Republic of China respectively;
- maritime areas, beyond the external boundaries of the territorial sea of each of the above territories over which the respective Contracting Party exercises in accordance with international law its sovereign rights or jurisdiction for the purpose of exploration, extraction, exploitation and preservation of natural resources of such areas.

6. The term "laws and regulations of the Contracting Party" means the laws and other regulations of the Russian Federation or the laws and other regulations of the People's Republic of China.

Article 2

Promotion and protection of investment

1. Each Contracting Party shall aspire to create favorable conditions to investors of the other Contracting Party to make investments in its territory and admit such investments in accordance with its laws and regulations.

2. Each Contracting Party shall, in accordance with its laws and regulations, provide full protection on in its territory to investments of investors of the other Contracting Party.

3. Without prejudice to its laws and regulations, each Contracting Party shall favorably consider granting visas and working permits to nationals of the other Contracting Party engaging engaged in activities associated with investments made in the territory of the former Contracting Party.

Article 3

Treatment of investment

1. Each Contracting Party shall ensure in its territory fair and equitable treatment of the investments made by investors of the other Contracting Party and activities in connection with such investments.

Without prejudice to its laws and regulations, neither Contracting Party shall take any discriminatory measures that might hinder management and disposal activities in connection with of investments. 655

2. Without prejudice to its laws and regulations, each Contracting Party shall accord to investments and activities connected in connection with such investments by investors of the other Contracting Party treatment not less favourable than that accorded to the investments and activity activities connected with such investments by its own investors.

3. Neither Contracting Party shall subject investments and activities connected with such investments by the investors of the other Contracting Party to treatment less favorable than that accorded to the investments and activities in connection with such investments by the investors of any third State.

4. The provisions of Paragraphs 3 of this Article shall not be construed so as to oblige one Contracting Party to extend to investments by the investors of the other Contracting Party the benefit of any treatment, preference or privilege by virtue of:

- a) agreements establishing free trade area, customs unions, economic unions, monetary unions or similar institutions, or on the basis of interim agreements leading to such unions or institutions;
- b) international agreements or international arrangements relating to taxation;
- c) agreements between the Russian Federation and the states, which had earlier formed part of the Union of Soviet Socialist Republics, related to the investment in term of this Agreement.

The Agreements mentioned in this paragraph 4 of this Article shall be compatible with the WTO commitments of either the former of the Contracting Parties Party in respect of the issues covered by the WTO Agreements.

5. Without prejudice to the provisions of the Articles 4, 5 and 9 of this Agreement the Contracting Parties may accord the treatment no more favourable than the treatment granted by the Contracting Parties in accordance with the multilateral arrangements concerning the treatment of investments in which both Contracting Parties participate.

Article 4

Expropriation

1. Neither Contracting Party shall expropriate, nationalize or take other similar measures (hereinafter referred to as "expropriation") against the investments of the investors of the other Contracting Party in its territory, unless the measures are taken for the public interests and meet all of the following conditions:

- (a) under domestic legal procedure;
- (b) without discrimination;
- (c) against compensation.

2. The compensation mentioned in paragraph 1 of this Article shall be equivalent to the market value of the expropriated investments immediately before the expropriation is taken or the impending expropriation becomes public knowledge, whichever is earlier. The value shall be determined in accordance with generally recognized principles of valuation. The compensation shall include interest calculated from the date of expropriation until the date of payment at the LIBOR rate for six months US dollar credits. The compensation shall be paid without delay in any freely convertible currency.

Article 5

Compensation for losses

Investors of one Contracting Party whose investments suffer losses in the territory of the other Contracting Party as a result of war, civil disturbance, a state of national emergence or other similar events shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation and other settlements in relation to such losses no less favorable than that accorded in like circumstances to the investors of its own or any third State, whichever is more favorable.

Article 6

Transfer of payments

1. Each Contracting Party shall, subject to its own laws and regulations, guarantee to the investors of the other Contracting Party upon fulfillment by them of all tax obligations a free transfer abroad of payments related to their investments made in its territory, and in particular:

- (a) returns as defined in Article 1 of this Agreement;
- (b) proceeds obtained from the total or partial sale or liquidation of investments;
- (c) payments on loans and credits;
- (d) earnings of nationals of the State of other Contracting Party who work in connection with an investment in the territory of the former Contracting Party;

(e) payments arising out of the settlement of an investment dispute under Article 9 of this Agreement;

(f) compensation stipulated in Article 4 and Article 5 of this Agreement.

2. The payments, mentioned in paragraph 1 of the present Article, could be, freely converted in any freely convertible currency pursuant to the laws and regulations of the Contracting Party in the territory of which the investments were made at the market rate of exchange applicable on the date of conversion.

3. The payments shall be remitted without delay in a freely convertible currency pursuant to the existing foreign exchange laws and regulations of the Contracting Party in the territory of which the investments were made.

Article 7

Subrogation

1. If one Contracting Party provides financial indemnity against non-commercial risks to its investor with regard to the investment made in the territory of the other Contracting Party and makes a payment to such investor under indemnity, the other Contracting Party shall recognize acquirement of all the rights and claims of such investor by the former Contracting Party by law or by legal transactions by virtue of subrogation.

2. However, the rights or claims shall not exceed the original rights or claims of such investor by virtue of subrogation, neither prejudice all the original rights or claims of such investor the other Contracting Party has acquired.

Article 8

Settlement of disputes between Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled with consultation through diplomatic channel.

2. If a dispute cannot thus be settled within six months, it shall, upon the request of either Contracting Party, be submitted to an ad hoc arbitral tribunal.

3. Such arbitral tribunal comprises of three arbitrators. Within two months of the receipt of the written notice requesting arbitration, each Contracting Party shall appoint one arbitrator. Those two arbitrators shall, within further two months, together select a national of a third State agreed by both Contracting Parties as Chairman of the arbitral tribunal.

4. If the arbitral tribunal has not been constituted within four months from the receipt of the written notice requesting arbitration, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or is otherwise prevented from discharging the said functions, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party or is not otherwise prevented from discharging the said functions shall be invited to make such necessary appointments.

5. The arbitral tribunal shall determine its own procedure. The arbitral tribunal shall reach its award in accordance with the provisions of this Agreement and the principles of international law recognized by both Contracting Parties.

6. The arbitral tribunal shall reach its award by a majority of votes. Such award shall be final and binding upon both Contracting Parties. The arbitral tribunal shall, upon the request of either Contracting Party, explain the reasons of its award.

7. Each Contracting Party shall bear the costs of its appointed arbitrator and of its representation in arbitral proceedings. The relevant costs of the Chairman and tribunal shall be borne in equal parts by the Contracting Parties.

Article 9

Settlement of disputes between one Contracting Party and an investor of the other Contracting Party

1. Any dispute between a Contracting Party and an investor of the other Contracting Party, related to an investment, shall be as far as possible settled amicably through negotiations.

2. If the dispute cannot be settled amicably through negotiations within six months from the date it has been raised by either party to the dispute, it shall be submitted:

a) to the competent court of the Contracting Party that is a party to the dispute; or

b) to the International Center Centre for Settlement of Investment Disputes (the Centre) under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington on March 18, 1965 (subject to it entered into force for both Contracting Parties) or

Additional Facility Rules of International Centre for Settlement of Investment Disputes (provided that the Convention has not entered into force for either Contracting Party); or 657
c) to an ad hoc arbitration court in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. Once the investor has submitted the dispute to the competent court of the concerned Contracting Party or to the Centre or to the ad hoc arbitration court, the choice of one of the three procedures shall be final.

4. The arbitration award shall be based on:

- the provisions of this Agreement;
- the laws and other regulations of the Contracting Party in whose territory the investment has been made including the rules relative to conflict of laws; and
- the rules and universally accepted principles of international law.

5. The arbitration award shall be final and binding on both parties to the dispute. Each Contracting Party ensures enforcement of this award in accordance with its legislation laws and other regulations.

Article 10

Other obligations

If the provisions of laws and regulations of either Contracting Party or obligations under international treaties existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain the provisions entitling investments by investors of the other Contracting Party to a treatment more favorable than is provided for by the Agreement, such provisions shall, to the extent that they are more favourable to the investor, prevail over this Agreement.

Article 11

Application

1. This Agreement shall apply to all investments made by investors of one of the Contracting Parties in the territory of the other Contracting Party beginning from January 1st 1985, but shall not apply to the disputes that arose before the entry into force of this Agreement.

2. Each Contracting Party shall observe commitments it may have entered into with the investors of the other Contracting Party under this Agreement as regards to their investments.

Article 12

Consultations

The Contracting Parties shall consult, at the request of either of them, on the matter concerning the interpretation or application of this Agreement. Where either Contracting Party requests such consultation, the other Contracting Party shall give prompt response.

Article 13

Entry into force, duration and termination

1. This Agreement shall enter into force on the first day of the following month after the date on which both Contracting Parties have notified each other in writing that their respective internal legal procedures necessary therefore have been fulfilled and remain in force for a period of ten years.

2. This Agreement shall remain in force for a period of ten years. Upon expiration of this period it shall automatically extend for subsequent periods of five years unless one of the Contracting Party Parties notifies the other Contracting Party in writing at least twelve months in advance of the expiration of the respective five year period of its intention to terminate this Agreement.

3. With respect to investments made prior to the date of termination of this Agreement, the provisions of Article 1 to 12 of this Agreement shall continue to be effective for a further period of ten years from such date of termination.

4. The Agreement between the Government of the People's Republic of China and the Government of the Union of Soviet Socialist Republics on the Promotion and Protection of Investments between the People's Republic of China and the Union of Soviet Socialist Republics signed on the 21st of July, 1990, shall be automatically terminated in the relations between the Russian Federation and the People's Republic of China on the date of entry into force of the this Agreement.

5. This Agreement is supplemented by a Protocol of to this Agreement and constituting an integral part of this Agreement.

In witness whereof the undersigned, duly authorized thereto by respective Governments, have signed this Agreement.

**PROTOCOL
TO THE AGREEMENT BETWEEN THE GOVERNMENT
OF THE RUSSIAN FEDERATION AND THE GOVERNMENT
OF THE PEOPLE'S REPUBLIC OF CHINA ON THE PROMOTION
AND RECIPROCAL PROTECTION OF INVESTMENTS**

(Beijing, 9.XI.2006)

On the signing of the Agreement on Promotion and Reciprocal Protection of Investments between the Government of the Russian Federation and the Government of the People's Republic of China (hereinafter referred to as the Agreement), the undersigned representatives have agreed on the following provisions which constitute an integral part of the Agreement:

1. Unless otherwise agreed by both Contracting Parties, the Agreement does not apply to the Hong Kong Special Administrative Region of the People's Republic of China and the Macao Special Administrative Region of People's Republic of China.

2. Ad Article 3

The Chinese side takes the note that, with reference of Paragraph 5 in Article 3 of the Agreement, the Russian Federation considers the WTO General Agreement on Trade in Services falling within the scope of multilateral arrangements concerning the treatment of investments.

3. Ad Article 9

Before the submission of a dispute mentioned in Article 9 of the Agreement to instances stipulated in paragraphs 2b and 2c of the said Article the Contracting Party involved in the dispute may require the investor concerned to go through domestic administrative review procedures specified by the laws and regulations of that Contracting Party. Such domestic administrative review procedures:

1. shall be applied on the most favoured nation treatment basis;

2. shall not in any case take a period of more than 90 days from the date when the administrative review body accepts the investor's application for administrative review procedures. In any case when the administrative review body does not accept the said application or fails to reply within the said 90-day period after it accepts the application, the investor concerned is entitled to submit the dispute to the instances mentioned in paragraph 2b and 2c of Article 9 of the Agreement;

3. shall not prevent the investor from submitting the dispute for resolution to the Center Centre or ad hoc arbitration court in accordance with the provisions of paragraph 2b and 2c of Article 9 of the Agreement;

4. shall not substitute any arbitration procedure or instance mentioned in paragraph 2b and 2c of Article 9 of the Agreement.

Done in duplicate at Beijing on November 9, 2006 in the Russian, Chinese and English languages, all texts being equally authentic. In case of divergent interpretation, the English text shall prevail.

ANNEX 23

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NOTE VERBALE

No. 22

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Spain and has the honor to refer to the Agreement between the United States of America and the Kingdom of Spain for Educational, Cultural and Scientific Cooperation which was signed at Madrid on October 27, 1994 (hereafter "the Agreement"), entered into force on April 26, 1995, and terminated in accordance with its terms on September 1, 2003.

The Embassy proposes that the Agreement be extended in accordance with the provisions of Article XII A of the Agreement.

If the above proposal meets with the approval of the Government of the Kingdom of Spain, the Embassy, on behalf of the Government of the United States of America, further proposes that this note and the Ministry's note in reply shall constitute an agreement to extend the Agreement, which shall be applied provisionally from September 2, 2003.

This Agreement shall enter into force on the date of receipt of the last notification by which the parties shall inform each other of the completion of their respective internal requirements necessary to bring this agreement into force.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America,

Madrid, January 20, 2004



DIPLOMATIC NOTE

**U.S. Department of State
Office of Language Services
Translating Division**

LS No. 03-2004-0268
BMB/JPM
Spanish

**Kingdom of Spain
Ministry of Foreign Affairs**

Note Verbale

No. 32/2

[Ministry date stamp, February 2, 2004,
record No. 2977]

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America at Madrid and has the honor to acknowledge receipt of the Embassy's note verbale No. 22 of January 20, 2004, which reads as follows:

[The Spanish translation of note verbale No. 22 of January 20, 2004, agrees in all substantive respects with the original English text, with the following exception:
In the fourth paragraph, line 4, "to bring this agreement into force" has been omitted from the Spanish text.]

The Ministry of Foreign Affairs is pleased to inform the Embassy of the United States of America that this proposal is acceptable and that the Embassy's note verbale No. 22 and this note in reply shall constitute an agreement between our two governments

Embassy of the United States of America,
Madrid.

to extend the Agreement for Educational, Cultural and Scientific Cooperation, which was signed on October 27, 1994.

[Complimentary close]

Madrid, February 2, 2004

[Initialed]

[Ministry stamp]

ANNEX 24

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

Article 1

THE INTERNATIONAL COURT OF JUSTICE established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I

ORGANIZATION OF THE COURT

Article 2

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

Article 3

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.

2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

Article 4

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.

2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as

those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

Article 5

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

Article 6

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

Article 7

1. The Secretary-General shall prepare a list

in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.

2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

Article 8

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

Article 9

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

Article 10

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

Article 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

Article 12

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

Article 13

1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.

2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.

3. The members of the Court shall continue to

discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

Article 14

Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

Article 15

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 16

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.

2. Any doubt on this point shall be settled by the decision of the Court.

Article 17

1. No member of the Court may act as agent, counsel, or advocate in any case.

2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.

3. Any doubt on this point shall be settled by the decision of the Court.

Article 18

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.

2. Formal notification thereof shall be made to the Secretary-General by the Registrar.

3. This notification makes the place vacant.

Article 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Article 20

Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

Article 21

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.

2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

Article 22

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

2. The President and the Registrar shall reside at the seat of the Court.

Article 23

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

2. Members of the Court are entitled to peri-

odic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.

3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

Article 24

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

Article 25

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.

2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

3. A quorum of nine judges shall suffice to constitute the Court.

Article 26

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, labor cases and cases relating to transit and communications.

2. The Court may at any time form a chamber

for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

Article 27

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

Article 28

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

Article 29

With a view to the speedy despatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

Article 30

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.

2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

Article 31

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.

2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among

those persons who have been nominated as candidates as provided in Articles 4 and 5.

3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.

4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.

6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfil the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

Article 32

1. Each member of the Court shall receive an annual salary.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for every day on which he acts as President.

4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed by

the General Assembly on the proposal of the Court.

7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their traveling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

Article 33

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

CHAPTER II

COMPETENCE OF THE COURT

Article 34

1. Only states may be parties in cases before the Court.

2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.

3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

Article 35

1. The Court shall be open to the states parties to the present Statute.

2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid

down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

Article 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.

2. The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

- a. the interpretation of a treaty;
- b. any question of international law;
- c. the existence of any fact which, if established, would constitute a breach of an international obligation;
- d. the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the

International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Article 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- b. international custom, as evidence of a general practice accepted as law;
- c. the general principles of law recognized by civilized nations;
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

CHAPTER III PROCEDURE

Article 39

1. The official languages of the Court shall be French and English. If the parties agree that the

case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

Article 40

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

Article 41

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

Article 42

1. The parties shall be represented by agents.

2. They may have the assistance of counsel or advocates before the Court.

3. The agents, counsel, and advocates of par-

ties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

Article 43

1. The procedure shall consist of two parts: written and oral.

2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.

3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

4. A certified copy of every document produced by one party shall be communicated to the other party.

5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

Article 44

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.

2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

Article 45

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

Article 46

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

Article 47

1. Minutes shall be made at each hearing and signed by the Registrar and the President.
2. These minutes alone shall be authentic.

Article 48

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 49

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

Article 50

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an enquiry or giving an expert opinion.

Article 51

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

Article 52

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

Article 53

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favor of its claim.

2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

Article 54

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.

2. The Court shall withdraw to consider the judgment.

3. The deliberations of the Court shall take place in private and remain secret.

Article 55

1. All questions shall be decided by a majority of the judges present.

2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

Article 56

1. The judgment shall state the reasons on which it is based.

2. It shall contain the names of the judges who have taken part in the decision.

Article 57

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 58

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

Article 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.

Article 60

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Article 61

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment.

Article 62

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2. It shall be for the Court to decide upon this request.

Article 63

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.

2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

Article 64

Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV ADVISORY OPINIONS

Article 65

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

Article 66

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.

2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

Article 67

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

Article 68

In the exercise of its advisory functions the

Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V
AMENDMENT

Article 69

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

Article 70

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

ANNEX 25

**CONVENTION ON THE
SETTLEMENT OF INVESTMENT
DISPUTES BETWEEN STATES AND
NATIONALS OF OTHER STATES**

CONVENTION ON THE SETTLEMENT OF INVESTMENT DISPUTES BETWEEN STATES AND NATIONALS OF OTHER STATES

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CONVENTION ON THE SETTLEMENT OF INVESTMENT DISPUTES BETWEEN STATES AND NATIONALS OF OTHER STATES

Preamble

The Contracting States

Considering the need for international cooperation for economic development, and the role of private international investment therein;

Bearing in mind the possibility that from time to time disputes may arise in connection with such investment between Contracting States and nationals of other Contracting States;

Recognizing that while such disputes would usually be subject to national legal processes, international methods of settlement may be appropriate in certain cases;

Attaching particular importance to the availability of facilities for international conciliation or arbitration to which Contracting States and nationals of other Contracting States may submit such disputes if they so desire;

Desiring to establish such facilities under the auspices of the International Bank for Reconstruction and Development;

Recognizing that mutual consent by the parties to submit such disputes to conciliation or to arbitration through such facilities constitutes a binding agreement which requires in particular that due consideration be given to any recommendation of conciliators, and that any arbitral award be complied with; and

Declaring that no Contracting State shall by the mere fact of its ratification, acceptance or approval of this Convention and without its consent be deemed to be under any obligation to submit any particular dispute to conciliation or arbitration,

Have agreed as follows:

Chapter I

International Centre for Settlement of Investment Disputes

Section 1 Establishment and Organization

Article 1

(1) There is hereby established the International Centre for Settlement of Investment Disputes (hereinafter called the Centre).

(2) The purpose of the Centre shall be to provide facilities for conciliation and arbitration of investment disputes between Contracting States and nationals of other Contracting States in accordance with the provisions of this Convention.

Article 2

The seat of the Centre shall be at the principal office of the International Bank for Reconstruction and Development (hereinafter called the Bank). The seat may be moved to another place by decision of the Administrative Council adopted by a majority of two-thirds of its members.

Article 3

The Centre shall have an Administrative Council and a Secretariat and shall maintain a Panel of Conciliators and a Panel of Arbitrators.

Section 2 The Administrative Council

Article 4

(1) The Administrative Council shall be composed of one representative of each Contracting State. An alternate may act as representative in case of his principal's absence from a meeting or inability to act.

(2) In the absence of a contrary designation, each governor and alternate governor of the Bank appointed by a Contracting State shall be *ex officio* its representative and its alternate respectively.

Article 5

The President of the Bank shall be *ex officio* Chairman of the Administrative Council (hereinafter called the Chairman) but shall

have no vote. During his absence or inability to act and during any vacancy in the office of President of the Bank, the person for the time being acting as President shall act as Chairman of the Administrative Council.

Article 6

(1) Without prejudice to the powers and functions vested in it by other provisions of this Convention, the Administrative Council shall:

- (a) adopt the administrative and financial regulations of the Centre;
- (b) adopt the rules of procedure for the institution of conciliation and arbitration proceedings;
- (c) adopt the rules of procedure for conciliation and arbitration proceedings (hereinafter called the Conciliation Rules and the Arbitration Rules);
- (d) approve arrangements with the Bank for the use of the Bank's administrative facilities and services;
- (e) determine the conditions of service of the Secretary-General and of any Deputy Secretary-General;
- (f) adopt the annual budget of revenues and expenditures of the Centre;
- (g) approve the annual report on the operation of the Centre.

The decisions referred to in sub-paragraphs (a), (b), (c) and (f) above shall be adopted by a majority of two-thirds of the members of the Administrative Council.

(2) The Administrative Council may appoint such committees as it considers necessary.

(3) The Administrative Council shall also exercise such other powers and perform such other functions as it shall determine to be necessary for the implementation of the provisions of this Convention.

Article 7

(1) The Administrative Council shall hold an annual meeting and such other meetings as may be determined by the Council, or convened by the Chairman, or convened by the Secretary-General at the request of not less than five members of the Council.

(2) Each member of the Administrative Council shall have one vote and, except as otherwise herein provided, all matters before the Council shall be decided by a majority of the votes cast.

(3) A quorum for any meeting of the Administrative Council shall be a majority of its members.

(4) The Administrative Council may establish, by a majority of two-thirds of its members, a procedure whereby the Chairman may seek a vote of the Council without convening a meeting of the Council. The vote shall be considered valid only if the majority of the members of the Council cast their votes within the time limit fixed by the said procedure.

Article 8

Members of the Administrative Council and the Chairman shall serve without remuneration from the Centre.

Section 3 The Secretariat

Article 9

The Secretariat shall consist of a Secretary-General, one or more Deputy Secretaries-General and staff.

Article 10

(1) The Secretary-General and any Deputy Secretary-General shall be elected by the Administrative Council by a majority of two-thirds of its members upon the nomination of the Chairman for a term of service not exceeding six years and shall be eligible for re-election. After consulting the members of the Administrative Council, the Chairman shall propose one or more candidates for each such office.

(2) The offices of Secretary-General and Deputy Secretary-General shall be incompatible with the exercise of any political function. Neither the Secretary-General nor any Deputy Secretary-General may hold any other employment or engage in any other occupation except with the approval of the Administrative Council.

(3) During the Secretary-General's absence or inability to act, and during any vacancy of the office of Secretary-General, the Deputy Secretary-General shall act as Secretary-General. If there shall be more than one Deputy Secretary-General, the Administrative Council shall determine in advance the order in which they shall act as Secretary-General.

Article 11

The Secretary-General shall be the legal representative and the principal officer of the Centre and shall be responsible for its administration, including the appointment of staff, in accordance with the provisions of this Convention and the rules adopted by the Administrative

Council. He shall perform the function of registrar and shall have the power to authenticate arbitral awards rendered pursuant to this Convention, and to certify copies thereof.

Section 4 The Panels

Article 12

The Panel of Conciliators and the Panel of Arbitrators shall each consist of qualified persons, designated as hereinafter provided, who are willing to serve thereon.

Article 13

(1) Each Contracting State may designate to each Panel four persons who may but need not be its nationals.

(2) The Chairman may designate ten persons to each Panel. The persons so designated to a Panel shall each have a different nationality.

Article 14

(1) Persons designated to serve on the Panels shall be persons 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. Competence in the field of law shall be of particular importance in the case of persons on the Panel of Arbitrators.

(2) The Chairman, in designating persons to serve on the Panels, shall in addition pay due regard to the importance of assuring representation on the Panels of the principal legal systems of the world and of the main forms of economic activity.

Article 15

(1) Panel members shall serve for renewable periods of six years.

(2) In case of death or resignation of a member of a Panel, the authority which designated the member shall have the right to designate another person to serve for the remainder of that member's term.

(3) Panel members shall continue in office until their successors have been designated.

Article 16

(1) A person may serve on both Panels.

(2) If a person shall have been designated to serve on the same Panel by more than one Contracting State, or by one or more Contracting States and the Chairman, he shall be deemed to have been designated by the authority which first designated him or, if one such authority is the State of which he is a national, by that State.

(3) All designations shall be notified to the Secretary-General and shall take effect from the date on which the notification is received.

Section 5 Financing the Centre

Article 17

If the expenditure of the Centre cannot be met out of charges for the use of its facilities, or out of other receipts, the excess shall be borne by Contracting States which are members of the Bank in proportion to their respective subscriptions to the capital stock of the Bank, and by Contracting States which are not members of the Bank in accordance with rules adopted by the Administrative Council.

Section 6 Status, Immunities and Privileges

Article 18

The Centre shall have full international legal personality. The legal capacity of the Centre shall include the capacity:

- (a) to contract;
- (b) to acquire and dispose of movable and immovable property;
- (c) to institute legal proceedings.

Article 19

To enable the Centre to fulfil its functions, it shall enjoy in the territories of each Contracting State the immunities and privileges set forth in this Section.

Article 20

The Centre, its property and assets shall enjoy immunity from all legal process, except when the Centre waives this immunity.

Article 21

The Chairman, the members of the Administrative Council, persons acting as conciliators or arbitrators or members of a Committee appointed pursuant to paragraph (3) of Article 52, and the officers and employees of the Secretariat

- (a) shall enjoy immunity from legal process with respect to acts performed by them in the exercise of their functions, except when the Centre waives this immunity;
- (b) not being local nationals, shall enjoy the same immunities from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of travelling facilities as are accorded by Contracting States to the representatives, officials and employees of comparable rank of other Contracting States.

Article 22

The provisions of Article 21 shall apply to persons appearing in proceedings under this Convention as parties, agents, counsel, advocates, witnesses or experts; provided, however, that sub-paragraph (b) thereof shall apply only in connection with their travel to and from, and their stay at, the place where the proceedings are held.

Article 23

(1) The archives of the Centre shall be inviolable, wherever they may be.

(2) With regard to its official communications, the Centre shall be accorded by each Contracting State treatment not less favourable than that accorded to other international organizations.

Article 24

(1) The Centre, its assets, property and income, and its operations and transactions authorized by this Convention shall be exempt from all taxation and customs duties. The Centre shall also be exempt from liability for the collection or payment of any taxes or customs duties.

(2) Except in the case of local nationals, no tax shall be levied on or in respect of expense allowances paid by the Centre to the Chairman or members of the Administrative Council, or on or in respect of salaries, expense allowances or other emoluments paid by the Centre to officials or employees of the Secretariat.

(3) No tax shall be levied on or in respect of fees or expense allowances received by persons acting as conciliators, or arbitrators, or

members of a Committee appointed pursuant to paragraph (3) of Article 52, in proceedings under this Convention, if the sole jurisdictional basis for such tax is the location of the Centre or the place where such proceedings are conducted or the place where such fees or allowances are paid.

Chapter II Jurisdiction of the Centre

Article 25

(1) The jurisdiction of the Centre shall extend to any legal dispute arising directly out of an investment, between a Contracting State (or any constituent subdivision or agency of a Contracting State designated to the Centre by that State) and a national of another Contracting State, which the parties to the dispute consent in writing to submit to the Centre. When the parties have given their consent, no party may withdraw its consent unilaterally.

(2) “National of another Contracting State” means:

- (a) any natural person who had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration as well as on the date on which the request was registered pursuant to paragraph (3) of Article 28 or paragraph (3) of Article 36, but does not include any person who on either date also had the nationality of the Contracting State party to the dispute; and
- (b) any juridical person which had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration and any juridical person which had the nationality of the Contracting State party to the dispute on that date and which, because of foreign control, the parties have agreed should be treated as a national of another Contracting State for the purposes of this Convention.

(3) Consent by a constituent subdivision or agency of a Contracting State shall require the approval of that State unless that State notifies the Centre that no such approval is required.

(4) Any Contracting State may, at the time of ratification, acceptance or approval of this Convention or at any time thereafter, notify the Centre of the class or classes of disputes which it would or would not consider submitting to the jurisdiction of the Centre. The Secretary-General shall forthwith transmit such notification to all Contracting

States. Such notification shall not constitute the consent required by paragraph (1).

Article 26

Consent of the parties to arbitration under this Convention shall, unless otherwise stated, be deemed consent to such arbitration to the exclusion of any other remedy. A Contracting State may require the exhaustion of local administrative or judicial remedies as a condition of its consent to arbitration under this Convention.

Article 27

(1) No Contracting State shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its nationals and another Contracting State shall have consented to submit or shall have submitted to arbitration under this Convention, unless such other Contracting State shall have failed to abide by and comply with the award rendered in such dispute.

(2) Diplomatic protection, for the purposes of paragraph (1), shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

Chapter III Conciliation

Section 1 Request for Conciliation

Article 28

(1) Any Contracting State or any national of a Contracting State wishing to institute conciliation proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to conciliation in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

Section 2 Constitution of the Conciliation Commission

Article 29

(1) The Conciliation Commission (hereinafter called the Commission) shall be constituted as soon as possible after registration of a request pursuant to Article 28.

(2) (a) The Commission shall consist of a sole conciliator or any uneven number of conciliators appointed as the parties shall agree.

(b) Where the parties do not agree upon the number of conciliators and the method of their appointment, the Commission shall consist of three conciliators, one conciliator appointed by each party and the third, who shall be the president of the Commission, appointed by agreement of the parties.

Article 30

If the Commission shall not have been constituted within 90 days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of Article 28, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible, appoint the conciliator or conciliators not yet appointed.

Article 31

(1) Conciliators may be appointed from outside the Panel of Conciliators, except in the case of appointments by the Chairman pursuant to Article 30.

(2) Conciliators appointed from outside the Panel of Conciliators shall possess the qualities stated in paragraph (1) of Article 14.

Section 3 Conciliation Proceedings

Article 32

(1) The Commission shall be the judge of its own competence.

(2) Any objection by a party to the dispute that that dispute is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Commission, shall be considered by the Com-

mission which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

Article 33

Any conciliation proceeding shall be conducted in accordance with the provisions of this Section and, except as the parties otherwise agree, in accordance with the Conciliation Rules in effect on the date on which the parties consented to conciliation. If any question of procedure arises which is not covered by this Section or the Conciliation Rules or any rules agreed by the parties, the Commission shall decide the question.

Article 34

(1) It shall be the duty of the Commission to clarify the issues in dispute between the parties and to endeavour to bring about agreement between them upon mutually acceptable terms. To that end, the Commission may at any stage of the proceedings and from time to time recommend terms of settlement to the parties. The parties shall cooperate in good faith with the Commission in order to enable the Commission to carry out its functions, and shall give their most serious consideration to its recommendations.

(2) If the parties reach agreement, the Commission shall draw up a report noting the issues in dispute and recording that the parties have reached agreement. If, at any stage of the proceedings, it appears to the Commission that there is no likelihood of agreement between the parties, it shall close the proceedings and shall draw up a report noting the submission of the dispute and recording the failure of the parties to reach agreement. If one party fails to appear or participate in the proceedings, the Commission shall close the proceedings and shall draw up a report noting that party's failure to appear or participate.

Article 35

Except as the parties to the dispute shall otherwise agree, neither party to a conciliation proceeding shall be entitled in any other proceeding, whether before arbitrators or in a court of law or otherwise, to invoke or rely on any views expressed or statements or admissions or offers of settlement made by the other party in the conciliation proceedings, or the report or any recommendations made by the Commission.

Chapter IV Arbitration

Section 1 Request for Arbitration

Article 36

(1) Any Contracting State or any national of a Contracting State wishing to institute arbitration proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to arbitration in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

Section 2 Constitution of the Tribunal

Article 37

(1) The Arbitral Tribunal (hereinafter called the Tribunal) shall be constituted as soon as possible after registration of a request pursuant to Article 36.

- (2) (a) The Tribunal shall consist of a sole arbitrator or any uneven number of arbitrators appointed as the parties shall agree.
- (b) Where the parties do not agree upon the number of arbitrators and the method of their appointment, the Tribunal shall consist of three arbitrators, one arbitrator appointed by each party and the third, who shall be the president of the Tribunal, appointed by agreement of the parties.

Article 38

If the Tribunal shall not have been constituted within 90 days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of Article 36, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible,

appoint the arbitrator or arbitrators not yet appointed. Arbitrators appointed by the Chairman pursuant to this Article shall not be nationals of the Contracting State party to the dispute or of the Contracting State whose national is a party to the dispute.

Article 39

The majority of the arbitrators shall be nationals of States other than the Contracting State party to the dispute and the Contracting State whose national is a party to the dispute; provided, however, that the foregoing provisions of this Article shall not apply if the sole arbitrator or each individual member of the Tribunal has been appointed by agreement of the parties.

Article 40

(1) Arbitrators may be appointed from outside the Panel of Arbitrators, except in the case of appointments by the Chairman pursuant to Article 38.

(2) Arbitrators appointed from outside the Panel of Arbitrators shall possess the qualities stated in paragraph (1) of Article 14.

Section 3

Powers and Functions of the Tribunal

Article 41

(1) The Tribunal shall be the judge of its own competence.

(2) Any objection by a party to the dispute that that dispute is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Tribunal, shall be considered by the Tribunal which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

Article 42

(1) The Tribunal shall decide a dispute in accordance with such rules of law as may be agreed by the parties. In the absence of such agreement, the Tribunal shall apply the law of the Contracting State party to the dispute (including its rules on the conflict of laws) and such rules of international law as may be applicable.

(2) The Tribunal may not bring in a finding of *non liquet* on the ground of silence or obscurity of the law.

(3) The provisions of paragraphs (1) and (2) shall not prejudice the power of the Tribunal to decide a dispute *ex aequo et bono* if the parties so agree.

Article 43

Except as the parties otherwise agree, the Tribunal may, if it deems it necessary at any stage of the proceedings,

- (a) call upon the parties to produce documents or other evidence, and
- (b) visit the scene connected with the dispute, and conduct such inquiries there as it may deem appropriate.

Article 44

Any arbitration proceeding shall be conducted in accordance with the provisions of this Section and, except as the parties otherwise agree, in accordance with the Arbitration Rules in effect on the date on which the parties consented to arbitration. If any question of procedure arises which is not covered by this Section or the Arbitration Rules or any rules agreed by the parties, the Tribunal shall decide the question.

Article 45

(1) Failure of a party to appear or to present his case shall not be deemed an admission of the other party's assertions.

(2) If a party fails to appear or to present his case at any stage of the proceedings the other party may request the Tribunal to deal with the questions submitted to it and to render an award. Before rendering an award, the Tribunal shall notify, and grant a period of grace to, the party failing to appear or to present its case, unless it is satisfied that that party does not intend to do so.

Article 46

Except as the parties otherwise agree, the Tribunal shall, if requested by a party, determine any incidental or additional claims or counterclaims arising directly out of the subject-matter of the dispute provided that they are within the scope of the consent of the parties and are otherwise within the jurisdiction of the Centre.

Article 47

Except as the parties otherwise agree, the Tribunal may, if it considers that the circumstances so require, recommend any provisional measures which should be taken to preserve the respective rights of either party.

Section 4 The Award

Article 48

(1) The Tribunal shall decide questions by a majority of the votes of all its members.

(2) The award of the Tribunal shall be in writing and shall be signed by the members of the Tribunal who voted for it.

(3) The award shall deal with every question submitted to the Tribunal, and shall state the reasons upon which it is based.

(4) Any member of the Tribunal may attach his individual opinion to the award, whether he dissents from the majority or not, or a statement of his dissent.

(5) The Centre shall not publish the award without the consent of the parties.

Article 49

(1) The Secretary-General shall promptly dispatch certified copies of the award to the parties. The award shall be deemed to have been rendered on the date on which the certified copies were dispatched.

(2) The Tribunal upon the request of a party made within 45 days after the date on which the award was rendered may after notice to the other party decide any question which it had omitted to decide in the award, and shall rectify any clerical, arithmetical or similar error in the award. Its decision shall become part of the award and shall be notified to the parties in the same manner as the award. The periods of time provided for under paragraph (2) of Article 51 and paragraph (2) of Article 52 shall run from the date on which the decision was rendered.

Section 5 Interpretation, Revision and Annulment of the Award

Article 50

(1) If any dispute shall arise between the parties as to the meaning or scope of an award, either party may request interpretation of the award by an application in writing addressed to the Secretary-General.

(2) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with Section 2 of this Chapter. The

Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision.

Article 51

(1) Either party may request revision of the award by an application in writing addressed to the Secretary-General on the ground of discovery of some fact of such a nature as decisively to affect the award, provided that when the award was rendered that fact was unknown to the Tribunal and to the applicant and that the applicant's ignorance of that fact was not due to negligence.

(2) The application shall be made within 90 days after the discovery of such fact and in any event within three years after the date on which the award was rendered.

(3) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with Section 2 of this Chapter.

(4) The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Tribunal rules on such request.

Article 52

(1) Either party may request annulment of the award by an application in writing addressed to the Secretary-General on one or more of the following grounds:

- (a) that the Tribunal was not properly constituted;
- (b) that the Tribunal has manifestly exceeded its powers;
- (c) that there was corruption on the part of a member of the Tribunal;
- (d) that there has been a serious departure from a fundamental rule of procedure; or
- (e) that the award has failed to state the reasons on which it is based.

(2) The application shall be made within 120 days after the date on which the award was rendered except that when annulment is requested on the ground of corruption such application shall be made within 120 days after discovery of the corruption and in any event within three years after the date on which the award was rendered.

(3) On receipt of the request the Chairman shall forthwith appoint from the Panel of Arbitrators an *ad hoc* Committee of three persons. None of the members of the Committee shall have been a member of

the Tribunal which rendered the award, shall be of the same nationality as any such member, shall be a national of the State party to the dispute or of the State whose national is a party to the dispute, shall have been designated to the Panel of Arbitrators by either of those States, or shall have acted as a conciliator in the same dispute. The Committee shall have the authority to annul the award or any part thereof on any of the grounds set forth in paragraph (1).

(4) The provisions of Articles 41-45, 48, 49, 53 and 54, and of Chapters VI and VII shall apply *mutatis mutandis* to proceedings before the Committee.

(5) The Committee may, if it considers that the circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Committee rules on such request.

(6) If the award is annulled the dispute shall, at the request of either party, be submitted to a new Tribunal constituted in accordance with Section 2 of this Chapter.

Section 6 Recognition and Enforcement of the Award

Article 53

(1) The award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention. Each party shall abide by and comply with the terms of the award except to the extent that enforcement shall have been stayed pursuant to the relevant provisions of this Convention.

(2) For the purposes of this Section, "award" shall include any decision interpreting, revising or annulling such award pursuant to Articles 50, 51 or 52.

Article 54

(1) Each Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State. A Contracting State with a federal constitution may enforce such an award in or through its federal courts and may provide that such courts shall treat the award as if it were a final judgment of the courts of a constituent state.

(2) A party seeking recognition or enforcement in the territories of a Contracting State shall furnish to a competent court or other authority which such State shall have designated for this purpose a copy of the award certified by the Secretary-General. Each Contracting State shall notify the Secretary-General of the designation of the competent court or other authority for this purpose and of any subsequent change in such designation.

(3) Execution of the award shall be governed by the laws concerning the execution of judgments in force in the State in whose territories such execution is sought.

Article 55

Nothing in Article 54 shall be construed as derogating from the law in force in any Contracting State relating to immunity of that State or of any foreign State from execution.

Chapter V Replacement and Disqualification of Conciliators and Arbitrators

Article 56

(1) After a Commission or a Tribunal has been constituted and proceedings have begun, its composition shall remain unchanged; provided, however, that if a conciliator or an arbitrator should die, become incapacitated, or resign, the resulting vacancy shall be filled in accordance with the provisions of Section 2 of Chapter III or Section 2 of Chapter IV.

(2) A member of a Commission or Tribunal shall continue to serve in that capacity notwithstanding that he shall have ceased to be a member of the Panel.

(3) If a conciliator or arbitrator appointed by a party shall have resigned without the consent of the Commission or Tribunal of which he was a member, the Chairman shall appoint a person from the appropriate Panel to fill the resulting vacancy.

Article 57

A party may propose to a Commission or Tribunal the disqualification of any of its members on account of any fact indicating a manifest lack of the qualities required by paragraph (1) of Article 14. A party to arbitration proceedings may, in addition, propose the disqualification

of an arbitrator on the ground that he was ineligible for appointment to the Tribunal under Section 2 of Chapter IV.

Article 58

The decision on any proposal to disqualify a conciliator or arbitrator shall be taken by the other members of the Commission or Tribunal as the case may be, provided that where those members are equally divided, or in the case of a proposal to disqualify a sole conciliator or arbitrator, or a majority of the conciliators or arbitrators, the Chairman shall take that decision. If it is decided that the proposal is well-founded the conciliator or arbitrator to whom the decision relates shall be replaced in accordance with the provisions of Section 2 of Chapter III or Section 2 of Chapter IV.

Chapter VI

Cost of Proceedings

Article 59

The charges payable by the parties for the use of the facilities of the Centre shall be determined by the Secretary-General in accordance with the regulations adopted by the Administrative Council.

Article 60

(1) Each Commission and each Tribunal shall determine the fees and expenses of its members within limits established from time to time by the Administrative Council and after consultation with the Secretary-General.

(2) Nothing in paragraph (1) of this Article shall preclude the parties from agreeing in advance with the Commission or Tribunal concerned upon the fees and expenses of its members.

Article 61

(1) In the case of conciliation proceedings the fees and expenses of members of the Commission as well as the charges for the use of the facilities of the Centre, shall be borne equally by the parties. Each party shall bear any other expenses it incurs in connection with the proceedings.

(2) In the case of arbitration proceedings the Tribunal shall, except as the parties otherwise agree, assess the expenses incurred by the parties in connection with the proceedings, and shall decide how and by whom those expenses, the fees and expenses of the members of the Tri-

bunal and the charges for the use of the facilities of the Centre shall be paid. Such decision shall form part of the award.

Chapter VII Place of Proceedings

Article 62

Conciliation and arbitration proceedings shall be held at the seat of the Centre except as hereinafter provided.

Article 63

Conciliation and arbitration proceedings may be held, if the parties so agree,

- (a) at the seat of the Permanent Court of Arbitration or of any other appropriate institution, whether private or public, with which the Centre may make arrangements for that purpose; or
- (b) at any other place approved by the Commission or Tribunal after consultation with the Secretary-General.

Chapter VIII Disputes Between Contracting States

Article 64

Any dispute arising between Contracting States concerning the interpretation or application of this Convention which is not settled by negotiation shall be referred to the International Court of Justice by the application of any party to such dispute, unless the States concerned agree to another method of settlement.

Chapter IX Amendment

Article 65

Any Contracting State may propose amendment of this Convention. The text of a proposed amendment shall be communicated to the Secretary-General not less than 90 days prior to the meeting of the Administrative Council at which such amendment is to be considered

and shall forthwith be transmitted by him to all the members of the Administrative Council.

Article 66

(1) If the Administrative Council shall so decide by a majority of two-thirds of its members, the proposed amendment shall be circulated to all Contracting States for ratification, acceptance or approval. Each amendment shall enter into force 30 days after dispatch by the depositary of this Convention of a notification to Contracting States that all Contracting States have ratified, accepted or approved the amendment.

(2) No amendment shall affect the rights and obligations under this Convention of any Contracting State or of any of its constituent subdivisions or agencies, or of any national of such State arising out of consent to the jurisdiction of the Centre given before the date of entry into force of the amendment.

Chapter X Final Provisions

Article 67

This Convention shall be open for signature on behalf of States members of the Bank. It shall also be open for signature on behalf of any other State which is a party to the Statute of the International Court of Justice and which the Administrative Council, by a vote of two-thirds of its members, shall have invited to sign the Convention.

Article 68

(1) This Convention shall be subject to ratification, acceptance or approval by the signatory States in accordance with their respective constitutional procedures.

(2) This Convention shall enter into force 30 days after the date of deposit of the twentieth instrument of ratification, acceptance or approval. It shall enter into force for each State which subsequently deposits its instrument of ratification, acceptance or approval 30 days after the date of such deposit.

Article 69

Each Contracting State shall take such legislative or other measures as may be necessary for making the provisions of this Convention effective in its territories.

Article 70

This Convention shall apply to all territories for whose international relations a Contracting State is responsible, except those which are excluded by such State by written notice to the depositary of this Convention either at the time of ratification, acceptance or approval or subsequently.

Article 71

Any Contracting State may denounce this Convention by written notice to the depositary of this Convention. The denunciation shall take effect six months after receipt of such notice.

Article 72

Notice by a Contracting State pursuant to Articles 70 or 71 shall not affect the rights or obligations under this Convention of that State or of any of its constituent subdivisions or agencies or of any national of that State arising out of consent to the jurisdiction of the Centre given by one of them before such notice was received by the depositary.

Article 73

Instruments of ratification, acceptance or approval of this Convention and of amendments thereto shall be deposited with the Bank which shall act as the depositary of this Convention. The depositary shall transmit certified copies of this Convention to States members of the Bank and to any other State invited to sign the Convention.

Article 74

The depositary shall register this Convention with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations and the Regulations thereunder adopted by the General Assembly.

Article 75

The depositary shall notify all signatory States of the following:

- (a) signatures in accordance with Article 67;
- (b) deposits of instruments of ratification, acceptance and approval in accordance with Article 73;
- (c) the date on which this Convention enters into force in accordance with Article 68;
- (d) exclusions from territorial application pursuant to Article 70;

- (e) the date on which any amendment of this Convention enters into force in accordance with Article 66; and
- (f) denunciations in accordance with Article 71.

DONE at Washington, in the English, French and Spanish languages, all three texts being equally authentic, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to fulfil the functions with which it is charged under this Convention.