


World Arbitration & Mediation Report



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HIGHLIGHTS

SPECIAL EDITION: LATIN AMERICAN ARBITRATION

In May 2005, an **ICSID Tribunal** rendered the first final award in an arbitration involving **Argentina's liability under a BIT**. The disputes involved the controversial economic measures taken by the Argentine government in 2001-2002 in regard to **foreign investment**. The award was for US \$133 million plus interest; it was rendered in favor of a U.S. company that had claimed that Argentina violated its obligation to treat investors fairly and equitably under the BIT. (The story begins on page 72.)

In *Gas Natural SDG, S.A. v. Republic of Argentina*, an **ICSID Tribunal** found that the **Most-Favored-Nation clause** in the Spain-Argentina BIT allowed a claimant to avoid the obligation in the treaty to exhaust domestic remedies prior to arbitration given the more favorable provision in the U.S.-Argentina BIT. The ruling represents an emerging trend in ICSID cases to allow claimants to "**treaty-shop**" for better treaty protections when the relevant BIT contains a Most-Favored-Nation Clause. (The story begins on page 75.)

In May 2005, an **ICSID Tribunal** rendered an arbitral award against **Chile** for US \$5.87 million plus interest in

CONTENTS

Regional News.....	71
Investment Arbitration.....	72
National Court Decisions.....	78
Articles and Commentary.....	80

favor MTD Equity. The claimant alleged a violation of the **Malaysia-Chile BIT**. According to Chilean government officials, it was the first international arbitral award rendered against Chile in modern history. (The story begins on page 75.)

In *Bear Service S.A. v. Cerveceria Modelo S.A. de C.V.*, the **Supreme Court of Argentina** recognized the **lack of jurisdiction** of the **local courts** to decide a commercial claim based on the breach of a purchase of goods contract which contained an arbitration clause. (The story begins on page 78.)

In *L'Aiglon S.A. v. Textil União S.A.*, the **Brazilian Superior Court of Justice** enforced a **foreign arbitral award** against a Brazilian company for the first time since Brazil ratified the New York Arbitration Convention in 2002. The award was for US \$900 million. It involved a Swiss company and a Brazilian company and the purchase of 1500 metric tons of crude cotton. (The story begins on page 79.)

Philip Dunham and **Simon Greenberg** of **Dechert LLP, Paris** provide a comprehensive account of the developments in Brazilian arbitration law. (The article begins on page 80.)

Nigel Blackaby and **Sylvia Noury** provide an overview of arbitration in Latin America. (The article begins on page 90.)

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SPECIAL EDITION

IN THIS ISSUE

REGIONAL NEWS

Conferences on International Arbitration in Latin American by Ines de San Martin.....	71
Academic Program on Arbitration in Latin America.....	71
Calendar of Seminars, Workshops, and Conferences.....	71

INVESTMENT ARBITRATION

ICSID Cases on Claims Against Argentina.....	72
ICSID Dismisses Another of Argentina's Jurisdictional Challenges: <i>AES Corporation v. Republic of Argentina</i>	72
Argentina's Jurisdictional Challenges Rejected In Yet Another Case: <i>Sempra Energy International v. Argentina</i>	73
Another Jurisdictional Defeat for Argentina: <i>Camuzzi</i> <i>International v. Argentina</i>	74
Most-Favored-Nation Clause Triggers Protections in Other Treaties: <i>Gas Natural SDG, S.A. v. Republic of Argentina</i>	75
ICSID Award Against Chile.....	75
ICSID Tribunal Rejects Mexico's Request for Consolidation of NAFTA Claim.....	76
The ACP-EC Partnership Agreement Yields an Award Favorable to Latin American Countries.....	76

NATIONAL COURT DECISIONS

The Argentine Supreme Court Upholds the Jurisdictional Effect of an Arbitration Agreement by Fernando Aguilar & Federico S. Deyá.....	78
Brazilian Superior Court of Justice Enforces a Foreign Arbitral Award.....	79

ARTICLES AND COMMENTARY

I. After 10 Years Of Positive Developments, Does Confusion Remain In Brazil's Arbitration Law? by Philip Dunham & Simon Greenberg.....	80
II. International Arbitration in Latin America by Nigel Blackaby & Sylvia Noury.....	90

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Submission Information

Editorial correspondence should be directed to Professor Thomas Carbonneau, Editor, *World Arbitration and Mediation Report*, 71 New Street, Huntington, New York 11743 (USA), or Penn State Dickinson School of Law, 150 South College Street, Carlisle, PA 17013-2899. You may call him at (717) 240-5153; email: tec10@psu.edu.