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Inter-American Commercial Arbitration Revisited

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INTER-AMERICAN COMMERCIAL ARBITRATION REVISITED*

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A new Inter-American Convention on International Commercial Arbitration was approved at the Third Plenary Session of the Inter-American Specialized Conference on Private International Law, held on January 29, 1975 in Panama City.[1] The Convention recognizes the validity of an agreement to submit to arbitration present or future disputes between the parties with respect to a commercial transaction. The appointment of arbitrators may be delegated to a third party and arbitrators may be nationals or foreigners. In the absence of an express agreement between the parties, the arbitration shall be conducted in accordance with the rules of procedure of the Inter-American Commercial Arbitration Commission. An arbitral award is recognized as having the force of a final judicial judgment; its execution may be ordered in the same manner as that of judgments of national or foreign ordinary courts; and such recognition and execution may be refused only if the complaining party is able to prove to the competent authority of the state in which recognition and execution is requested that certain particularized grounds for nullification exist.

The OAS Specialized Conference was attended by delegations from twenty countries, members of the Organization of American States. It was only the second such Specialized Conference on Private International Law since 1928 when the Bustamante Code was approved in Havana, Cuba.[2] In addition to the Convention on International Commercial Arbitration the Panama Conference approved five other international con-

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ventions on bills of exchange; promissory notes and invoices; letters rogatory; obtaining evidence abroad in civil and commercial cases; powers of attorney; and checks of international circulation.

The Convention on International Commercial Arbitration was signed by the heads of delegations of Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Uruguay and Venezuela. Other governments present such as Mexico and the United States wished to refer the Convention to interested organizations and institutions in their respective countries for comment prior to reaching a decision as to whether or not to sign.

The Convention will become effective when it is ratified by two countries. The Convention is also open for signature of governments in other areas of the world.

The Convention has now formalized and crystallized for the first time in the Western Hemisphere the rules and parameters for utilizing arbitration to resolve disputes flowing from international economic disputes. It is also the first time that twelve governments of the Western Hemisphere have signified their willingness to have international commercial disputes submitted to arbitration in accordance with the terms of a convention specially drafted for application in the Western Hemisphere. This is especially noteworthy since only Ecuador and Mexico had acceded to the United Nations Convention to the Recognition and Enforcement of Foreign Arbitral Awards (1958). And no Latin American country has to date become signatory to the World Bank Convention establishing the International Centre for the Settlement of Investment Disputes.[3] Clearly the countries of the Latin American world continue to regard the Organization of American States as a unique body especially capable of formulating solutions for problems, practices and procedures of the Western Hemisphere.

But the new Convention does not isolate the Western Hemisphere from relationships to arbitral institutional arrangements and practices throughout the world. On the contrary, the new Inter-American Convention was carefully drawn so as to be fully compatible with the United Nations Convention of 1958, other regional arrangements throughout the world, such as, for example, the Economic Commission for Europe, the Economic Commission for Asia and the Far East and the rules and practices of the International Chamber of Commerce in Paris.

Such recognition of the desirability of moving toward a global uniformity in the practice of international commercial arbitration was

reinforced by the understanding of delegations to the Specialized Conference that the Inter-American Commercial Arbitration Commission may well adopt the arbitration rules which have been prepared and are currently under consideration by the United Nations Commission on International Trade Law. When adopted by UNCITRAL and by regional and national arbitration institutions throughout the world, the UNCITRAL rules will provide for a uniformity of practice in the field of international commercial arbitration.

Thus, by recognizing the Inter-American Commercial Arbitration Commission as a chosen instrument for the settlement of international economic disputes in the Western Hemisphere and by recognizing that the rules of the IACAC may well be patterned on the UNCITRAL rules in the near future, the OAS Specialized Conference not only confirmed on a hemispheric and intergovernmental basis the validity of the concept of international commercial arbitration but moved at the same time to integrate procedures and practices of the Western Hemisphere into the evolving global pattern of arbitration currently unfolding throughout the world.

It might be useful to place these dramatic developments in perspective and then to look carefully at the specific language of the new Inter-American Convention, particularly in the light of the debate which took place during the Panama Conference. And after reviewing the Convention, it will be helpful to consider its impact on the resolution of disputes flowing from the rapidly increasing volume of international economic transactions between private parties and governments or quasi-government corporations in the Western Hemisphere. It is clear that there is a growing body of economic relationships in the foreign trade and investment field between private parties on the one hand and state governments or quasi-government corporations on the other hand. In Latin America this type of trade has come to resemble foreign trade between the industrial west and the socialist states. With the socialist states, for example the Soviet Union, agreements have been reached to resolve international economic disputes by arbitration and under the auspices of third parties such as, for example, the Stockholm Chamber of Commerce.[4]

In the Western Hemisphere there are increasing manifestations that Latin American governments have been willing to accept third party arbitration for international economic disputes between the governments themselves or their quasi-government corporations and foreign third parties. Now that a new Inter-American Convention on International Com-

mercial Arbitration has created a chosen instrument for dispute settlement in the Western Hemisphere, perhaps it can be envisaged that the Inter-American Commercial Arbitration Commission will become an accepted instrument for fact finding, conciliating or arbitrating international economic disputes to which governments of the Western Hemisphere or their quasi-government corporations are parties.[5]

HISTORICAL PERSPECTIVE OF INTERNATIONAL COMMERCIAL ARBITRATION IN THE WESTERN HEMISPHERE

Within the United States under common law procedures an agreement to arbitrate was always regarded as being revocable at the will of the parties. In 1920, however, New York State enacted the first modern arbitration statute requiring enforcement of written agreements to arbitrate future controversies, thus completely abrogating the common law rule of irrevocability. In 1926 the American Arbitration Association was organized and since that date has had a rapid growth in processing domestic arbitration cases, handling approximately 26,000 cases per year. In the international field the AAA manages about fifty international cases a year, including those flowing from foreign trade between the United States and the Western European countries, Japan and the Soviet bloc countries.

In Latin America the practice of domestic arbitration has been governed by the national codes of civil procedure. Some countries recognize the validity of a clause to arbitrate future disputes. Most of the countries additionally require that when a dispute arises the arbitration clause itself must be perfected by preparing a submission in the form of a public document *(escritura pública)* which could then be enforced in the courts. In perhaps half of the Latin American countries the assistance of a court can be invoked to perfect the submission and proceed with arbitration in the event that one of the parties is recalcitrant, i.e., an arbitration *en rebeldía.*

In general, it can be said that the procedure of arbitration has been recognized as constitutionally valid in the Latin American world but it should be noted that even as late as 1969 the constitutionality of the arbitral procedure was attacked by a well-known Colombian jurist on the grounds of its ousting the courts of their jurisdiction; the Supreme Court, however, upheld the constitutionality of the arbitral process in Colombia.[6]

At the governmental level in Latin America several governments have over a period of time acquiesced in the practice of submitting disputes to which they are parties to arbitration. For example, the Government of Argentina has been willing to submit to the general arbitration tribunal of the Argentine Stock Exchange in Buenos Aires, disputes arising between foreign oil companies and YPF, the Argentine Government oil monopoly. The Government of Ecuador has included an arbitration clause in contracts with its government housing bank. The Government of Costa Rica included an arbitration clause in a contract to import German machinery and equipment. The Government of Honduras has included an arbitration clause in its contracts for construction of public roads, and the Government of Perú is reliably reported to have concluded at least fifteen international contracts with European companies in which arbitration clauses have been submitted to provide for the resolution of future disputes.

Some of these clauses have relied on arbitration in accordance with local law, *e.g.*, in Argentina. Others, however, have provided for arbitration pursuant to the rules of the Inter-American Commercial Arbitration Commission as, for example, the contracts involving the governments of Honduras and Costa Rica.

With the rapid growth of foreign trade not only in the Western Hemisphere but also between the countries of the Latin American world, Western Europe, Japan and the Socialist States, it has become extremely important to agree on the processes for the settlement of international economic disputes.[7] The renewed recognition of this need by the countries attending the Panama Conference was the latest in a series of recurring steps which have taken place in recent years to bring current the international practice of commercial arbitration in the Hemisphere.

In 1933, the Seventh International Conference of American States meeting in Montevideo, Uruguay, adopted Resolution XLI recommending that the respective chambers of commerce of the Hemisphere sign a convention on international arbitration identical to the Convention of 1916 between the *Bolsa de Comercio of Buenos Aires* and the United States Chamber of Commerce. After setting forth standards in matters of procedure or practice that were deemed essential in the rules and regulations used by trade and commercial organizations in the inter-American system, the Conference provided that "with a view to establishing even closer relations among the commercial associations of the Americas entirely independent of official control, an inter-American commercial

agency be appointed in order to represent the commercial interests of all republics, and to assume, as one of its most important functions, the responsibility of establishing an inter-American system of arbitration."[8] Pursuant to that resolution, the Inter-American Commercial Arbitration Commission was established in 1934 with the help and assistance of the American Arbitration Association.

The Organization of American States continued to take note of the need to perfect the arbitral processes in the Western Hemisphere, and in 1956 in Mexico City the Inter-American Council of Jurists promulgated a model law on international commercial arbitration.[9] Finding that the national legislatures of the several Latin American countries had been reluctant to adopt such a model law, the Inter-American Juridical Committee at its Rio de Janeiro 1967 session, prepared a report on a Draft Convention on International Commercial Arbitration.[10] The Convention would recognize the validity of the arbitration clause both for present and for future disputes; recognize that arbitrators might be appointed by a third party, such as the Inter-American Commercial Arbitration Commission; recognize that the rules of the Commission could govern an arbitration under certain circumstances; give the arbitration award the force of a final judgment; and limit the right of appeal to a few well recognized grounds.

It was that draft Convention of the Inter-American Juridical Committee that was included in a document prepared by the General Secretariat of the Organization of American States for the purpose of forwarding the Inter-American Juridical Committee's documents to the governments of the Member States as background information and for assistance in preparing an agenda for the Inter-American Specialized Conference on Private International Law.[11] A resolution had been taken on April 23, 1971 to convoke such a conference,[12] and by December 20, 1972 a draft agenda for the conference had been prepared and circulated.[13]

A COMMENTARY ON THE CONVENTION

The verbatim text of the Convention is set forth in the appendix to the article, but it may be of value to comment briefly on the process whereby the Convention was finally adopted by the Specialized Conference and then to comment on the individual articles.

The Specialized Conference functioned through a plenary, two commissions to which were assigned the several agenda items, and various

working groups, each one of which was especially constituted to consider an individual agenda item. With regard to the Convention on International Commercial Arbitration, the working group was made up of the delegations of Brazil, the United States and Mexico, although a delegate from Chile participated in the discussions and it was monitored by a delegate from Panama. The draft prepared by the working group was subsequently discussed in detail during three sessions of the Committee responsible for the preparation of a final draft to submit to a plenary session where after extensive debate the final text of the Convention was approved on the basis of voting article by article. The votes for each article were not uniform but each article was approved by at least eleven affirmative votes out of a possible twenty votes.

The Inter-American Juridical Committee had reviewed its earlier draft Inter-American Convention on International Commercial Arbitration and had approved it on August 6, 1973 for submission to the Specialized Inter-American Conference. Dr. José Joaquín Caicedo Castilla, rapporteur for the Inter-American Juridical Committee, had prepared a statement of reasons in support of the draft convention which in five basic clauses resolved the juridical problems that have arisen in this important field.[14] In addition to the document prepared by the Inter-American Juridical Committee and the draft prepared by the working group, the Conference also had the benefit of views submitted as amendments to the draft by the delegations of Colombia, Ecuador, Mexico and Chile. In addition to these delegations the terms and the language of the Convention were vigorously debated by all other delegates to the Conference.

It might be useful to review each of the articles and to highlight the principal points at issue during the discussion.

Art. 1 validates the concept of an agreement to arbitrate present or future disputes. The Convention as approved provides that "an agreement in which the parties undertake to submit to arbitral decision any differences that may arise or have arisen between them with respect to a commercial transaction is valid" while the initial draft of the Juridical Committee used the language, "the arbitration clause". The language of the Convention was intended to clarify the use of a "submission" which would be prepared by the parties after a controversy had arisen, thus recognizing the validity of both the clause in an existing contract and also the submission which might be prepared at a later date.

Also to be noted is that such an agreement need not necessarily be set forth in a traditional contractual document but might very well be evidenced by an "instrument, signed by the parties, or in the form of an exchange of letters, telegrams or telex communications." This language recognized the contemporary practices of the international business community.

Art. 2 respects the will of the parties in appointing arbitrators, and recognizes that if the parties agree the appointment of arbitrators "may be delegated to a third party, whether a natural or judicial person." This principle is of great interest in the Western Hemisphere since it provides for the recognition of an institutional arrangement such as the Inter-American Commercial Arbitration Commission, more specifically discussed in Art. 3 of the Convention.

Art. 2 also provides that arbitrators may be nationals or foreigners, a subject that has been greatly discussed throughout the world and particularly in the Western Hemisphere. Some countries in the Western Hemisphere do not grant aliens the right to be arbitrators because it is felt that "arbitration involves taking part in some way in the administration of justice, which should be reserved for nationals only. It is held that this involves exercise of one of the political rights that aliens are excluded from enjoying." The statement of the rapporteur of the Inter-American Juridical Committee continues to say that "this argument fails to convince, because arbitration is aimed at ending a conflict between private interests, in most cases through friendly conciliators. Accordingly, no sovereign prerogative is affected. On the contrary, on occasions the differences between the parties in commercial operations reflect technical points, for the comprehension of which experts in the subject are more indicated than are jurists . . ."[15]

It should be noted that if, as and when any country accedes to the Convention on International Commercial Arbitration, the Convention will supersede and replace the local law and where, as in Colombia today, it is provided that aliens may not be arbitrators such provision will be nullified.

Art. 3 recognizes that the parties may expressly agree on any rules to govern the procedure of their arbitration. However, in the absence of any expressed agreement between the parties "the arbitration shall be conducted in accordance with the rules of procedure of the Inter-American Commercial Arbitration Commission."

The Panama Conference was greatly interested in the organization and functioning of the Commission and in particular each of the delegates was given a copy of the rules of the Commission. The possibility of substituting rules of an international institution for the local procedural rules within any given country gave rise to a considerable debate as to the validity and effectiveness of trying to prescribe what law would govern the conduct of the arbitration and in accordance with what rules such arbitration should be governed.

The Conference came to the ultimate realization that the requirements of contemporary international trade mandated the need to create an international and new frame of reference within which disputes flowing from this trade should be resolved. Until a dispute arose it was not possible to be definitive about the appropriate situs for the arbitration, who should be the arbitrators, and what law or what rules should govern. Accordingly, it was not only appropriate but feasible that a third party institution such as the Inter-American Commercial Arbitration Commission should be designated as the institution whose rules should govern the arbitration process. The rules of the IACAC provide for arbitration *ex aequo et bono* on the basis of commercial custom instead of arbitration in law.[16] This was consonant with the requirements of international trade.

Art. 4 of the Convention provides that the arbitral award shall have the force of a final judicial judgment; that its recognition and execution may be ordered in the same manner as that of judgments handed down by national or foreign ordinary courts and in accordance with the procedural laws of the country of execution as well as the provisions of their national treaties. Provisions for the recognition and enforcement of foreign arbitral awards are contained in the Bustamante Code and also in the Treaties of Montevideo. The recognition provisions of the new Convention restate the juridical principles of reciprocal enforcement of foreign arbitral awards in the Western Hemisphere and should tend to clarify this concept and establish a uniformity for all countries to follow.

It should be noted that the Delegation of Argentina consistently opposed the approval of the new Convention on International Commercial Arbitration as being contrary to the constitutional provisions of Argentina in not recognizing the validity of an arbitration held outside of the country nor that non-Argentine nationals may be arbitrators.

However, Argentina is a signatory to the Treaties of Montevideo providing for the recognition of foreign arbitral awards.

Art. 5 on the remedies that may be taken against an arbitral award was the subject of considerable debate in Panama. Members of the working group had concluded that it might be best to omit such an article from the new Convention and to leave the grounds on which a foreign award could be attacked essentially to a consideration of the requirements of public policy. However, several of the delegations were of the opinion that it would be more desirable to include the specific provisions setting forth grounds for attacking the award and accordingly, on motion of the delegate of Ecuador, strongly supported by the delegates of Brazil and the United States, the language of Art. 5 of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) was adopted almost verbatim for the new Inter-American Convention.

Art. 6, taken verbatim from the U.N. Convention, provides for the postponement of a decision on the execution of an arbitral award and the obligation of an objecting party to provide appropriate guarantees.

Art. 7 opens the Convention for signature by all member states of the Organization of American States but it should also be noted that the Convention might appropriately be signed by any government wishing to adhere to the Convention.

Art. 8 provides that the Convention is subject to ratification, and Art. 9 provides for the accession by any other State.

Art. 10 provides for the entering into force of the Convention following the deposit of the second instrument of ratification.

Art. 11 is essentially of interest to those governments having a federal system such as Canada or the United States where the federal law and the laws of any given province or state may differ. Thus, any such state having two or more territorial units in which different systems of law apply in relation to arbitration may, at the time of acceding to the Convention, declare that it shall extend to all its territorial units or only to one or more of them.

Art. 12 provides for the denunciation of the Convention by depositing such an instrument with the General Secretariat of the Organization of American States.

SIGNIFICANCE OF THE CONVENTION

For the first time in the Western Hemisphere the member governments of the Organization of American States now have a convention providing for uniformity of settlement of international commercial disputes by way of arbitration. An institutional organization, the Inter-American Commercial Arbitration Commission has been recognized by the Convention as a responsible third party instrument for administering arbitrations and assisting in the settlement of international economic disputes. The rules of the Commission will have the force and effect of law within every state ratifying the Convention. An orderly process has been created for resolving foreign trade and investment disputes in the Western Hemisphere.[17] Resort to such a process will greatly facilitate the growth of inter-American foreign trade and investment.

These bright prospects for the future have been in the process of development since 1965 when efforts began to revitalize and reorganize the Commission and to further the concepts of international economic arbitration in the Western Hemisphere. There have been five Inter-American Conferences on Commercial Arbitration in the Western Hemisphere: Buenos Aires, 1967; Mexico City, 1968; Panama City, 1970; Guatemala City, 1972; and Bogota, Colombia, 1974. The VIth Inter-American Conference on Commercial Arbitration will be held in Brazil in 1976 and the VIIth such conference will be held at Mexico City in 1978.

The VIth International Congress on Commercial Arbitration will be held in Mexico City in 1978. There, participants from every major trading country of the world will continue their discussion and perfection of a global system of cooperation between arbitral institutions and hopefully meet the objective of working towards uniformity of rules and procedures. The Inter-American system has now come of age with the adoption by the OAS Specialized Conference on Private International Law of a new Convention on International Commercial Arbitration. Such a convention, widely publicized throughout the Western Hemisphere during the next three years, should contribute greatly to the culmination in 1978 of the ten-year process of revitalizing and reorganizing commercial arbitration practices and procedures throughout the Western Hemisphere.

APPENDIX

INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

(Topic 5)

(Approved at the Third Plenary Session held on January 29, 1975 and reviewed by the Style Committee.)

The Governments of the Member States of the Organization of American States, desirous of concluding a Convention on International Commercial Arbitration, have agreed as follows:

Article 1

An agreement in which the parties undertake to submit to arbitral decision any differences that may arise or have arisen between them with respect to a commercial transaction is valid. The agreement shall be set forth in an instrument, signed by the parties, or in the form of an exchange of letters, telegrams or telex communications.

Article 2

Arbitrators shall be appointed in the manner agreed upon by the parties. Their appointment may be delegated to a third party, whether a natural or juridical person.

Arbitrators may be nationals or foreigners.

Article 3

In the absence of an express agreement between the parties, the arbitration shall be conducted in accordance with the rules of procedure of the Inter-American Commercial Arbitration Commission.

Article 4

An arbitral decision or award that is not appealable under the applicable law or procedural rules shall have the force of a final judicial judgment. Its execution or recognition may be ordered in the same manner as that of decisions handed down by national or foreign ordinary courts, in accordance with the procedural laws of the country where it is to be executed and the provisions of international treaties.

Article 5

1. The recognition and execution of the decision may be refused, at the request of the party against which it is made, only if such party is able to prove to the competent authority of the state in which recognition and execution is requested:

a. That the parties to the agreement were subject to some incapacity under the applicable law or that the agreement is not valid under the law to which the parties have submitted it, or, if such law is not specified, under the law of the state in which the decision was made; or

b. That the party against which the arbitral decision has been made was not duly notified of the appointment of the arbitrator or of the arbitration procedure to be followed, or was unable, for any other reason, to present his defense; or

c. That the decision concerns a dispute not envisaged in the arbitration agreement between the parties to submit it to arbitration; nevertheless, if the provisions of the decision that refer to issues submitted to arbitration can be separated from those not submitted to arbitration, the former may be recognized and executed; or

d. That the constitution of the arbitral tribunal or the arbitration procedure has not been carried out in accordance with the terms of the agreement signed by the parties or, in the absence of such agreement, that the constitution of the arbitral tribunal or the arbitration procedure has not been carried out in accordance with the law of the state where the arbitration took place; or

e. That the decision is not yet binding on the parties or has been annulled or suspended by a competent authority of the state in which, or according to the law of which the decision has been made.

2. The recognition and execution of an arbitral decision may also be refused if the competent authority of the state in which the recognition and execution is requested finds:

a. That the subject of the dispute cannot be settled by arbitration under the law of that state; or

b. That the recognition or execution of the decision would be contrary to the public policy ("ordre public") of that state.

Article 6

If the competent authority mentioned in Article 5.1.e has been requested to annul or suspend the arbitral decision, the authority before which such decision is invoked may, if it deems it appropriate, postpone a decision on the execution of the arbitral decision and, at the request of the party requesting execution, may, also instruct the other party to provide appropriate guarantees.

Article 7

This Convention shall be open for signature by all Member States of the Organization of American States.

Article 8

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article 9

This Convention shall remain open for accession by any other state. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

Article 10

This Convention shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification.

For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 11

If a State Party has two or more territorial units in which different systems of law apply in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or only to one or more of them.

Such declaration may be modified by subsequent declarations, which shall expressly indicate the territorial unit or units to which the Convention

applies. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall become effective thirty days after the date of their receipt.

Article 12

This Convention shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall no longer be in effect for the denouncing State, but shall remain in effect for the other States Parties.

Article 13

The original instrument of this Convention, the Spanish, French, English and Portuguese texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States. The Secretariat shall notify the Member States of the Organization of American States that have acceded to the Convention of the signatures, deposits of instruments of ratification, accession, and denunciation as well as of reservations, if any. It shall also transmit the declarations referred to in Article 11 of this Convention.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE AT PANAMA CITY, Republic of Panama, this thirtieth day of January one thousand nine hundred and seventy-five.

NOTES

[1]Organization of American States, Inter-American Specialized Conference on Private International Law (CIDIP) held in Panama, Republic of Panama, January 14-29, 1975.

[2]Convention on Private International Law, signed in Havana, Cuba, February 20, 1928 during the VI Inter-American Conference. The U.S. Delegation was led by Charles Evans Hughes, Esq., but while the Final Act was signed the Convention was not thereafter ratified by the Government of the United States.

[3]Convention on the Settlement of Investment Disputes between States and Nationals of Other States, approved by the Executive Directors of the World Bank on March 18, 1965. The Convention entered into force on October 14, 1966 and as of March 28, 1975, the Convention had been signed by 71 states of which 66 hao also ratified it.

[4]See agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics regarding trade, Article 7, October 18, 1972, as reprinted at pages 349-357 in *Business Transactions with the USSR*, published by the Section of International Law, American Bar Association, 1975. See also in the same volume, "Arbitration of U.S.-USSR Trade Disputes", pages 175-184, by Charles R. Norberg, Esq., and Daniel D. Stein, Esq.

[5]See the *Declaration of Tlatelolco*, para. IV(3) and (4) by the Conference of the Organization of American States Foreign Ministers, Mexico City, Mexico, February 24, 1974.

[6]See Opinion of Colombian Supreme Court Justice Dr. Luis Sarmiento Buitrago, May 29, 1969, Acta No. 42.

[7]For an excellent discussion of the validity and usefulness of the international arbitral process, see the opinion of the United States Supreme Court in *Scherk v. Alberto-Culver Company*, decided June 17, 1974.

[8]Resolution XLI of the VII International Conference of American States, Montevideo, Uruguay, December 23, 1933.

[9]Draft Uniform Law on Inter-American Commercial Arbitration, Resolution VIII of the Third Meeting of the Inter-American Council of Jurists, Mexico City, Mexico, 1956.

[10]Report of the Inter-American Juridical Committee on the Draft Convention on International Commercial Arbitration, OEA/SER. 1/VI. 1, February 19, 1968.

[11]OEA/SER. K/XXI. 1; CIDIP/3; 11 March 1974.

[12]Resolution AG/Res. 48(I-O/71) of the General Assembly of the Organization of American States.

[13]Approved by the Permanent Council of the OAS on December 20, 1972 (CP/Res. 83/89/72).

[14]*Supra* note 12, pages 51-54.

[15]*Supra* note 12, page 52.

[16]Rules of the Inter-American Commercial Arbitration Commission as amended and in effect April 1, 1969.

[17]See a report submitted by the Inter-American Commercial Arbitration Commission to the National Chambers of Commerce and Industry; the Inter-American Council of Commerce and Production; Bar Associations and International Institutions of the Western Hemisphere, April 1, 1968.