

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

DISPUTE SETTLEMENT

INTERNATIONAL CENTRE FOR
SETTLEMENT OF INVESTMENT DISPUTES

2.9 Binding Force and Enforcement



UNITED NATIONS
New York and Geneva, 2003

NOTE

The Course on Dispute Settlement in International Trade, Investment and Intellectual Property consists of forty modules.

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TABLE OF CONTENTS

Notes	<i>ii</i>
Overview	1
Objectives	3
Introduction	5
1. Binding Force and Finality	7
2. Recognition and Enforcement	11
<i>a) Recognition of Awards</i>	12
<i>b) Enforcement of Awards</i>	13
<i>c) Procedure</i>	15
3. State Immunity	17
<i>a) Assets Subject to Immunity from Execution</i>	18
<i>b) Waiver of Immunity</i>	23
Test My Understanding	27
Hypothetical Cases	29
Further Reading	31

OVERVIEW

This Module deals with an ICSID award's binding force and with its enforcement. These matters are regulated in the Convention on the Settlement of Investment Disputes between States and Nationals of other States (the ICSID Convention).

ICSID awards are final and not subject to any appeal or other remedy except as provided for by the Convention itself. Under the Convention, post-award remedies are limited to supplementation and rectification, interpretation, revision and annulment. These post-award remedies are described in Module 2.7.

ICSID awards are binding on the parties. The parties are under a legal obligation to comply with awards.

Voluntary compliance is the norm. If it is not forthcoming, the Convention provides for enforcement.

Enforcement takes place through the appropriate authorities of the States parties to the Convention. All States parties to the Convention are under an obligation to recognize and enforce ICSID awards as if they were final judgments of local courts.

Enforcement has its limit in State immunity. An award against a host State need not be enforced if this would be in violation of the rules on State immunity as applied in the enforcing State.

OBJECTIVES

Upon completion of this Module the reader should be able to:

- Explain the finality of ICSID awards.
- Explain the binding force of ICSID awards.
- Distinguish the recognition and enforcement of awards.
- Delineate the obligation to recognize and enforce awards.
- Describe the procedure for the enforcement of awards.
- Appreciate the significance of State immunity in the enforcement of awards.
- Recount the practice of domestic courts in the enforcement of ICSID awards.
- Evaluate the overall effectiveness of ICSID arbitration.

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