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INSIDE

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Editorial

The ICC and its States Parties have to clarify ambiguity and uncertainty on the ICC's rules on immunity that arose about the correct interpretation of Article 98(1) in relation to Article 27(2), customary international law and Security Council (SC) Resolution 1593. On 31 March 2005, the UN Security Council (SC) acting under Chapter VII of the Charter of the UN adopted Resolution 1593(2005) referring the situation in Darfur, Sudan to the ICC. Article 27–which removes immunities of senior government officials–and at the same time Article 98(1) –which requires the Court not to issue requests for cooperation that would result in States Parties violating their obligations to provide immunities to senior officials of other States under customary international law.

On 6 July 2017, the Pre-Trial Chamber of the ICC (the South Africa decision) ruled that Al-Bashir does not enjoy immunity because the UN SC's referral placed Sudan in a similar position as a state party. Al-Bashir who is the Head of the State would not possess immunity from arrest because of Article 27(2) of the Statute which provides that immunities '… shall not bar the Court from exercising its jurisdiction'. In the South Africa decision, the Chamber stated that the 'necessary effect' of the SC's referral is that 'for the limited purpose of the situation in Darfur, Sudan has rights and duties analogous to those of states parties to the Statute' (para. 88). Earlier in the DRC decision held on 9 April 2014, the Chamber argued that the SC 'implicitly waived [Al-Bashir's] immunities under international law' (para. 29). Al-Bashir would not enjoy immunity because the SC removed his immunities by using its powers under Chapter VII of the UN Charter.

In short, both decisions turn to the SC, but do so in a slightly different manner. In the DRC decision, the Chamber relied itself directly on the powers of the SC under the UN Charter. The SC implicitly waived al-Bashir's immunity and for this reason Article 98(1) would not apply. In the South Africa decision, the Chamber reasoned that the SC created obligations for Sudan under the Charter, which are similar to those of a state party under the Statute. Al-Bashir would not enjoy immunity, because the application of Article 27(2) would remove that immunity. Thus the Chamber acted solely and without proper explanation on the assumption that it had no choice but to treat Sudan as a State Party. This assumption ignores provisions like Article 98 that explicitly distinguish the legal position of a state party from that of a non-party.

From a legal point of view, both decisions of ICC raise different questions and triggers questions about the powers of the SC and about the interpretation of its Resolution 1593: Does the SC has the power to deviate from customary international law or to remove immunities in an implicit manner?

Looking forward to resolve this legal issue, options are under discussion. The first option will be that South Africa should appeal the Chamber's ruling, but so far the Government of Jacob Zuma in South Africa decided not to do. Other states parties that have hosted Al-Bashir, such as Jordan, and who will be subjected to non-cooperation proceedings ought to consider requesting the Appeals Chamber to settle the matter of Al-Bashir's immunity in a more conclusive manner. A second option is the rendering of an advisory opinion by the ICJ to clarify the rules on state and diplomatic immunity under customary international law. The last option for the ICC's States Parties is to specify the rules for the implementation of Article 97 and 98.

Dr. E. M. Sudarsana Natchiappan

RECENT ACTIVITIES

1st Annual World Conference on Access to Medical Products & International Laws for Trade & Health, in the Context of the 2030 Agenda for Sustainable Development

Indian Society of International Law (ISIL), New Delhi Ministry of Health and Family Welfare, Govt. of India and World Health Organization Country Office for India jointly organized 1st Annual World Conference on Access to Medical Products & International Laws for Trade & Health, in the Context of the 2030 Agenda for Sustainable Development on 21-23 November 2017 at Hotel Taj Man Singh, Shahjahan Road, New Delhi. The Conference was inaugurated by Hon'ble Union Minister of Health and Family Welfare Shri J. P. Nadda along with Hon'ble Ms Anupriya Patel, Minister of State, Health & Family Welfare, Government of India. Other dignitaries Dr. E. M. S. Natchiappan, President, Indian Society of International Law, New Delhi, Ms Preeti Sudan, Secretary, Ministry of Health and Family Welfare, Government of India, Dr RK Vats, Additional Secretary, Ministry of Health and Family Welfare, Government of India, Dr Henk Bekedam, WHO Representative to India, Dr Soumya Swaminathan, Secretary, Depart-ment of Health and Research & Director General, Indian Council of Medical Research, Government of India and Dr VK Paul, Member, NITI Aayog were also present on dias. On 21 November 2017, a dinner followed by cultural programme sponsored by Delhi Government held at venue. The Conference was conducted in four Plenary Sessions, eight Parallel Sessions and three wrap up sessions for collating all recommendations. The main objective of the Conference was to exchange knowledge and expand understanding on contemporary issues in international trade laws and research and innovation for access to medical products to achieve SDG 2030 agenda. The conference sought to build on the discussions on access to medicines in the 2016 UN High Level Panel (HLP).

The conference was also supported by Biotechnology Industry Research Assistance Council (BIRAC), Indian Council of Medical Research (ICMR), Research & Innovation Systems in Developing Countries (RIS), Ministry of Science and Technology, Govt. of India. Approximately 285 experts and participants attended, coming from 40 countries including India and from many intergovernmental organizations. There were 191 national and 94 International participants. The attendees came from all six WHO regions. The countries which participated other than India were Argentina, Australia, Bhutan, Brazil, Canada, France, Italy, Japan, Liberia, Macedonia, Malaysia, Maldives, Myanmar, Netherlands, Spain, South Africa, Sri Lanka, Sweden, Switzerland, Thailand, United Kingdom, United States of America, Uruguay, Vietnam, Mauritius, Honduras, Zambia, Bolivia, Peru, Guatemala, Afghanistan, Uganda, Ecuador, Niger, Congo, Morocco, Tunisia, Iraq and Nigeria. Attendees represented a variety of organizations, with the largest numbers from the government or public agencies and academic sectors. The participation was also from high level delegates representing United Nations High Level Panel on Access to Medicines, United Nations (UN) organizations, Ministries of Health, Commerce, Foreign Affairs, partner agencies, academia, SAARC & WHO South-East Asia Region countries, civil society organizations and private sector including pharmaceutical and medical device associations.

Conference on the Convention on Certain Conventional Weapons (CCW)

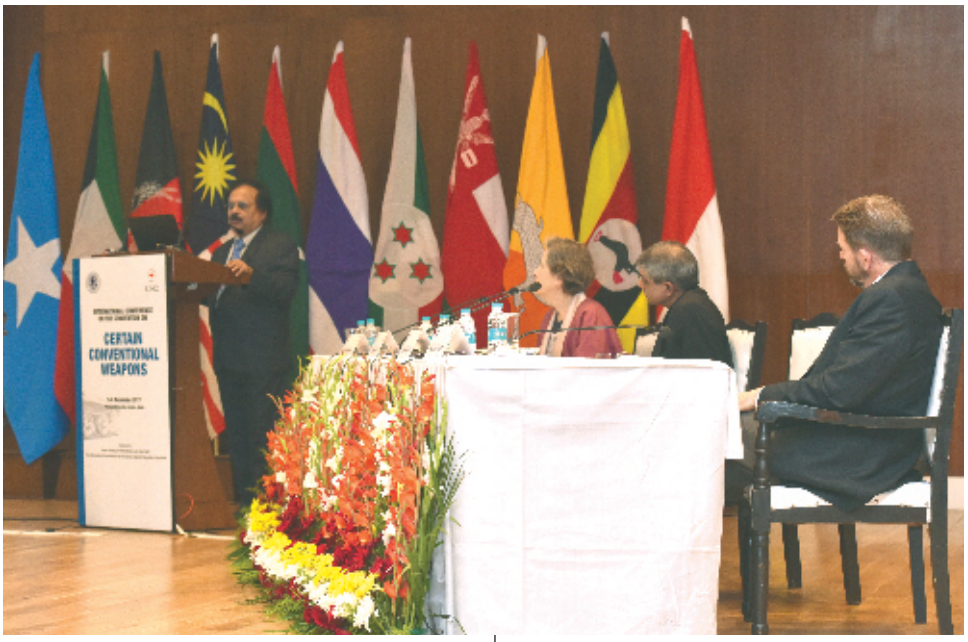
The Indian Society of International Law (ISIL), New Delhi and the International Committee of the Red Cross (ICRC) Regional Delegation for India, Nepal, Bhutan and the Maldives jointly organized a Conference on the Convention on Certain Conventional Weapons (CCW), from 5–6 December 2017 at the Pravasi Bhartiya Kendra (PBK) Centre in New Delhi. The Conference was inaugurated by the

RECENT ACTIVITIES

Hon'ble Union Minister of State for External Affairs, Dr. V. K. Singh who hosted a dinner followed by cultural programme at PBK. The cultural programme was sponsored by Indian Council for Cultural Relations (ICCR), New Delhi. The Conference was attended by representatives of 55 states (from Asia, the Gulf Region and East Africa) and many international organizations. Representative of various states contributed to the Conference with presentations to enhance understanding of the scope and contents of CCW and the current issues on the CCW's agenda. The CCW plays a central role in international humanitarian law by seeking to limit the effects of weapons used in armed conflict. One of the features of the Conference was to facilitate increased adherence to the Convention, the full implementation of its provisions and participation in future CCW meetings.

7th Winter Course on International Maritime Law

The ISIL organized its Seventh Winter Course on International Maritime Law from 26 December 2017 to 30 December 2017. The course was inaugurated by Dr. Rasik Ravindra, Former Member, Commission on the Limits of the Continental Shelf (CLCS) along with Prof. Manoj Kumar Sinha, Director, Indian Law Institute, New Delhi. Dr. E. M. S. Natchiappan, President, ISIL welcomed the participants and Prof. S. K. Verma, Secretary General, ISIL, New Delhi proposed a formal vote of thanks. The Winter Course was intended to provide indepth understanding on various aspect of international maritime law and highlight its contemporary issues to the participants. The Course witnessed lively interactions and discussion among the participants. The



Course received a good response with 200 participants from all parts of the country. Hon'ble Justice B. S. Chauhan, Member, Law Commission of India gave valedictory address and distributed certificate to the participants.

Monthly Discussion Forum

Discussion on "Responsibility to Protect in the Rohingya Crisis", Prof. Vesselin Popovski, Vice Dean of the Law School, Executive Director of the Centre for UN Studies, O. P. Jindal Global University, Sonipat on 6 October 2017.

Discussion on "North Korea's Nuclear and Missile Programme: A Threat to World Peace?", by Dr. Sandip Kumar Mishra, Associate Professor, Centre for East Asian Studies, Jawaharlal Nehru University (JNU), New Delhi on 3 November 2017.

Discussion on "Reelection of Justice Dalveer Bhandari to International Court of Justice", by Associate Professor Shri D. Sridhar Patnaik, Director, Centre for Post Graduate Legal Studies, Executive Director, Centre for South Asian Legal Studies, O. P. Jindal Global University, Sonipat and Prof. S. K. Verma, Secretary General, ISIL on 1 December 2017.

Dr. Sushma Malik, Life Member of the ISIL Passed Away

Dr. Sushma Mailk, Former Secretary General, ISIL, New Delhi passed away peacefully on 26 December 2017. Dr. Sushma Mailk was the first woman who had occupied the post of Secretary General of the ISIL during 2001-2002. Dr. Sushma Malik served in various capacities at the Legal & Treaties Division, Ministry of External Affairs, Govt. of India and the ISIL, New Delhi. Dr. Sushma pursued her higher studies in Space Law from McGill University. A condolence meeting was held on 5 January 2018 at the ISIL and passed a resolution. Her sudden demise has left a big space which is very difficult to fill in. Life Members sincerely pray God to give enough courage to her family members and friends to overcome the grief. May her soul rest in peace.

Students Visits of the ISIL

Final LLB Students from Law Department, Burdwan University,

West Bengal and NERIM Law College, Guwahati visited the ISIL on 7 November 2017 and 16 November 2017 respectively. Shri Vinai Kumar Singh, Deputy Director, ISIL, New Delhi briefed the ISIL activities and career opportunity in international law to the students.

RECENT DEVELOPMENTS

The UK Supreme Court in Reyes v. Al-Malki on the Limits of Diplomatic Immunity in the Age of Human Trafficking

The UK Supreme Court, on 18 October 2017 delivered judgment in Reyes v. Al-Malki on diplomatic immunity. Ms Reyes, a Philippine national, was employed by Mr and Mrs Al-Malki as a domestic servant in their residence in London between 19 January and 14 March 2011. Ms Reyes alleged that she entered the United Kingdom on a Tier 5 visa which she obtained at the British embassy in Manila by producing documents supplied by Mr Al-Malki, including a contract showing that she would be paid £500 per month. She alleged that during her employment the Al-Malkis maltreated her by requiring her to work excessive hours, failing to give her proper accommodation, confiscated her passport and preventing her from leaving the house or communicating with others; and that they paid her nothing until after her employment terminated upon her escape on 14 March 2011. In June 2011, Ms Reyes began the present proceedings in the Employment Tribunal alleged direct and indirect race discrimination, unlawful deduction from wages and failure to pay her the national minimum wage. The Court of Appeal has held that the Employment Tribunal has no jurisdiction because Mr Al-Malki was entitled to diplomatic immunity under article 31 of the Vienna Convention on Diplomatic Relations, and Mrs Al-Malki was entitled to a derivative immunity under article 37(1) as a member of his family. The main issues on the appeal concern the effect of article 31(1)(c) of the Vienna Convention on Diplomatic Relations (VCDR), which contains an exception to the immunity of a diplomat from civil jurisdiction where the proceedings relate to "any professional or commercial activity exercised by the diplomatic agent in the receiving state outside his official functions." This raises, among other issues, the question how, if at all, that exception applies to a case of human trafficking. The Supreme Court decided on the basis of Article 39(2) of the Vienna Convention on Diplomatic Relations, which sets out the residual immunity enjoyed by diplomats who are no longer in post: 'When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.' The Judges unanimously held that the employment and maltreatment of Ms Reyes were not acts performed by Mr Al-Malki 'in the exercise of his functions as a member of the mission' and he was therefore not immune.

Lord Sumption wrote the lead Opinion (with which Lord Neuberger agreed), disposing of the case on the basis of Article 39(2), but also analysed Article 31(1)(c) in depth. Lord Wilson agreed with Lord Sumption's analysis of Article 39(2), but expressed 'doubts' regarding his interpretation of Article 31(1)(c), with Lady Hale and Lord Clarke sharing these 'doubts'. There is much of interest in the Reyes Judgment – the relationship between State and diplomatic immunities, approaches to treaty interpretation (including temporal dimensions), the appeal by Lord Wilson to the UN International Law Commission to take this issue forward (para 68 of the Judgement).

The EU and Its Anti-dumping and Anti-subsidy Legislation to Address State Induced Market Distortions

The European Parliament and the Council on 4 October 2017 at Brussels have agreed to change the EU's anti-dumping and anti-subsidy legislation following a proposal from the European Commission from November 2016. The main change to the anti-dumping legislation is the introduction of a new way to calculate dumping in anti-dumping investigations on imports from members of the World Trade Organization (WTO) in case prices and costs are distorted because of state intervention. The changes do not target any particular country. The new formula will be as: For WTO members, the dumping margin is normally calculated under the standard rules mentioned above. However, domestic prices and costs can be distorted owing to state interference. In this case, they do not provide a proper basis to determine the comparison with the export price. Under the new methodology when it is not appropriate to use domestic prices or costs due to these distortions, other benchmarks reflecting undistorted costs of production and sale will be used. These could include benchmarks, or corresponding costs of production and sale including in an appropriate representative country with a similar level of economic development

as the exporting country. This new methodology will allow the Commission to establish the actual magnitude of dumping where distortions exist. There is no list of countries to which the new methodology applies – it will be used in dumping cases if significant distortions are found in the exporting country concerned which impact on prices and costs.

US Refusal to Appoint New Appellate Body Members of WTO DSS

The specific issue here is whether Appellate Body Members can continue to serve and decide appeals after their term expires. Here is Rule 15 of the Appellate Body Working Procedures: A person who ceases to be a Member of the Appellate Body may, with the authorization of the Appellate Body and upon notification to the DSB, complete the disposition of any appeal to which that person was assigned while a Member, and that person shall, for that purpose only, be deemed to continue to be a Member of the Appellate Body.

Given the urgency and importance of filling the vacancies in the Appellate Body, in compliance with the DSU and so that it can carry on its functions properly, Argentina; Brazil; Chile; Colombia; Costa Rica; Ecuador; El Salvador; the European Union; Guatemala; Honduras; Hong Kong, China; Mexico; Nicaragua; Norway; Pakistan; Peru; the Russian Federation; Singapore; Switzerland;the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Turkey; Uruguay and Viet Nam propose that, at its meeting on 22 November 2017, the DSB may take a decision with regard to launch one selection process to replace Mr. Ricardo Ramírez Hernández, whose second four-year term of office expired on 30 June 2017, to launch another selection process to replace Mr. Hyun Chong Kim, who resigned from the Appellate Body as of 1 August 2017, and to launch a third selection process to replace Mr. Peter Van den Bossche, whose second four-year term of office is expired on 11 December 2017.

The US' persistent refusal to appoint new Appellate Body members and made statement on the November 22, 2017 in the DSB meeting: In the U.S. view, we cannot consider a decision launching a selection process when a person to be replaced continues to serve and decide appeals after the expiry of their term. As noted in past meetings, the DSB has a responsibility under the DSU to decide whether a person whose term of appointment has expired should continue serving. The United States considers that Members need to discuss and resolve that issue first before moving on to the issue of replacing such a person. As also noted previously, the United States would welcome Mr. Ramirez's continued service on the remaining appeal to which he was assigned prior to June 30. In fact, we do not understand any Member to object to his service on this appeal. In that circumstance, it should not be difficult for the DSB to take up its responsibility to adopt an appropriate decision. United States has continued to convene meetings to discuss this issue informally with a number of delegations. This outreach has been productive in that we believe we have heard a general recognition that the DSB has the authority to set the term of an AB member under DSU Article 17.2; it follows that the DSB has a responsibility to decide whether a person should continue serving beyond that term. We have also heard agreement from several delegations that Rule 15 raises difficult legal questions that the DSB should address. In the course of our engagement, we have not heard delegations reject the importance of the issue we have brought to the DSB's attention. To the contrary, we have heard a willingness of delegations to work together on this issue to find a way forward.

We therefore will continue our efforts and our discussions with Members and with the Chair to seek a solution on this important issue.

WTO: Definition of Developed and Developing Countries

There are no WTO definitions of "developed" and "developing" countries. Members claim for themselves (the so-called "self-election" principle) whether they are "developed" or "developing" countries. This is considered as a consequence of the principle of sovereignty which includes the right of states to proclaim that they are developing countries and the ensuing obligation of the international community to respect such a unilateral declaration. This is available at the WTO website https://www.wto.org/english/tratop_e/dvel_e/d1who_e.htm

"There are no WTO definitions of "developed" and "developing" countries. Members announce for themselves whether they are "developed" or "developing" countries. However, other members can challenge the decision of a member to make use of provisions available to developing countries."

The DS161: Korea — Measures Affecting Imports of Fresh, Chilled and Frozen Beef (popularly known as Korea Beef case) following the Appellate Body's report condemning Korea's practices, the EU, during the discussions at the DSB, noted with surprise that Korea had been treated by the Panel as a developing country for the purposes of the Agreement on

Agriculture. The EU underlined its disagreement with Korea's self-characterization as a developing country. The EU, however, was not a complaining party to this dispute and WTO Panels do not have the legal capacity to decide motu proprio on an issue which the complaining party did not raise (The World Trade Organization: Law, Practice, and Policy, by Mitsuo Matsushita, Thomas J. Schoenbaum, Petros C. Mavroidis and Michael Hahn).

India's Position in UNCITRAL: Reforms of ISDS (28 April 2017)

Question 1: Information on IIAs and their provisions on the settlement of investor-State disputes: India inked Bilateral Investment Promotion and Protection Agreements (BIPPAs)/ BITs with 83 countries since 1994. However, India unilaterally abrogated the said BIPPAs/BITs with 43 of the said 73 countries with whom the initial duration of 10/15 years of the said agreements was already over and which allowed for such a termination as per the decision of the Government of India to this effect. With respect to the remaining countries, a request of a Joint Interpretative Statement was issued. The erstwhile BIPPAs/BITs with these countries which are still alive would be terminated at the expiry of the initial duration. Currently, India is in the process of renegotiating with partner countries on new BITs based on India's new model text. India is also a signatory to FTAs with many partner countries. India's BITs and model BIT do contain provisions on settlement of Investor State Disputes.

Question 2: Provisions for permanent courts or tribunals (as opposed to investor-State arbitration) in IIAs: None of the IIAs nor the Model BIT provide for permanent courts or tribunals as such. However, under Article 29 of India's new model BIT, it does mention about developing an institutional mechanism with an appellate body in future for investment treaty disputes. Article 29 of India's new Model BIT reads as follows: The Parties may by agreement or after the completion of their respective procedures regarding the enforcement of this Treaty may establish an institutional mechanism* to develop an appellate body or similar mechanism to review awards rendered by tribunals under this chapter. Such appellate body or similar mechanism may be designed to provide coherence to the interpretation of provisions in this Treaty. In developing such a mechanism, the Parties may take into account the following issues, among others: (a) the nature and composition of an appellate body or similar mechanism; (b) the scope and standard of review of such an appellate body; (c) transparency of proceedings of the appellate body; (d) the effect of decisions by an appellate body or similar mechanism; (e) the relationship of review by an appellate body or similar mechanism to the arbitral rules that may be selected under Articles 20.1 of this Treaty; and (f) the relationship of review by an appellate body or similar mechanism to existing domestic laws and international law on the enforcement of arbitral awards.

*This may include an appellate mechanism for reviewing investor-state disputes established under a separate multilateral agreement in future.

Question 3: Provisions on appeal to investor-State arbitral awards in IIAs: Article 29 as quoted in the answer to question 2 describes about appeals facility. Ongoing negotiations are on the basis of this new model BIT.

Question 4: Provisions in IIAs on creation in the future of (a) a bilateral or multilateral appellate mechanism for investor-State arbitral awards; and/or (b) a bilateral or multilateral permanent investment tribunal or court: India's model BIT text does envisage the creation in the future of (a) a bilateral or multilateral appellate mechanism for investor-State arbitral awards; and/or (b) a bilateral or multilateral permanent investment tribunal or court. Article 29 as quoted in the above answers includes reference to a mechanism in future under a multilateral agreement.

Question 5: Provisions on the amend-ment of the IIAs; provisions safeguard-ing investors' rights or providing for transitional arrange-ments in case of modifications or amendments of the IIAs: (a) There are explicit provisions for amendment of an IIA in existing BITs and India's model text. The exact text of the provisions regarding amendments in the model BIT is as follows: Article 37: Amendments: 1. This Treaty may be amended at any time at the request of either Party. The requesting Party must submit its request in written form explaining the grounds on which the amendment shall be made. The other Party shall consult with the requesting Party regarding the proposed amendment and must also respond to the request in writing.

1. This Treaty will stand automatically amended at all times to the extent that the Parties agree. Any agreement to amend the treaty pursuant to this Article must be expressed in writing, whether in a single written instrument or through an exchange of diplomatic notes. These amendments shall be binding on the tribunals constituted under Chapter IV or Chapter V of this Treaty and a tribunal award must be consistent with all amendments to this Treaty."

(b) There are no instances of such an amendment in any case of a BIT between India and a partner country.

(c) India's model BIT text or any of the BITs concluded by India so far do not

contain provisions safeguarding investors' rights or providing for transitional arrangements in case of modi-fications or amendments of the IIAs.

Question 6: Statutory basis or judicial mechanism to recognize and enforce judgments of international courts (as opposed to foreign arbitral awards): No.

Question 7: Legislative provisions on appeal (as opposed to annulment) by State courts or arbitral tribunals against arbitral awards: The legislation does provide for challenge of awards on certain grounds, however, the legislation does not specify an appeal before another arbitration tribunal. However, the Supreme Court of India recently in Centrotrade Minerals & Metal vs. Hindustan Copper Ltd, held that parties may provide for appeal in the arbitration agreement. In this case the first award was under an arbitration administered by ICA (Indian Council of Arbitration) the aggrieved party then by means of an appeal as provided in the agreement brought about the subsequent appellate arbitration seated in London under ICC Rules.

Question 8: Any comments regarding the possible options for reform of the investor-State arbitration regime discussed in the CIDS research paper: It is important to start with a blank canvas to devise a more fair, a more legitimate, and a more self-contained system of ISDS with internal checks and balances to ensure a good quality of decision-making. This new system of dispute resolution should also be one which can seamlessly be merged into the current landscape of enforcement of decisions — with possibly one or two tweaks to facilitate better and quicker enforcement. One of the most critical areas in designing a permanent investment court relates to its composition, structure and certainty. One of the drawbacks of the current landscape of BIT arbitrations is the number of inconsistent or even contradictory awards — for instance, on the proper interpretation of umbrella clauses, the effect of an MFN clause, whether the FET standard only requires the minimum standard under CIL or if it is more expansive. Critics have also pointed to the CME and Lauder cases against the Czech Republic where the same facts led to two different decisions by two arbitral tribunals. The legal and practical challenges to establishing a world investment court should not be underestimated. These have been quite exhaustively dealt with in the CIDS analysis. It is also a welcome to have an opt in clause unlike in the Mauritius Convention where India had raised the issue with the opt out clause. India welcomes the move to have discussions and deliberations on the proposal, and further comments could be provided in due course.

President and Vice President of ITLOS

On 2 October 2017, Judge Jin-Hyun Paik (Republic of Korea) was elected as President of the International Tribunal for the Law of the Sea and Judge David Attard (Malta) as Vice-President for the period 2017 – 2020 by the members of the Tribunal.

Eleventh WTO Ministerial Conference and India

The Eleventh Ministerial Conference (MC11) took place from 10 to 13 December 2017 in Buenos Aires, Argentina. It was chaired by Minister Susana Malcorra of Argentina. The Conference ended with a number of ministerial decisions, including on fisheries subsidies and e-commerce duties, TRIPS non-violation and situation complaint and a commitment to continue negotiations in all areas. On the final day of the conference, three proponent groups announced new initiatives to advance talks at the WTO on the issues of electronic commerce, investment facilitation and micro, small and medium size enterprises (MSMEs). Other notable events at the Conference included the publication of the Buenos Aires Declaration on Women and Trade, the launch of the "Enabling E-commerce" initiative and the announcement of Google as the WTO/ICC's first Small Business Champion following the culmination of the small business video competition. Hon'ble Union Minister of Commerce and Trade Shri Suresh Prabhakar Prabhu made statement and clarified India's position. Hon'ble Minister said, 'The outcome of the expansion of global trade must be development. India calls upon the WTO membership to re-endorse the centrality of development in WTO negotiations without creating new sub-categories of countries..... One such issue is the permanent solution for public stockholding for food security purposes...Turning to Agricultural Domestic Support, the Agreement on Agriculture provides considerable flexibility to the developed members to provide huge subsidies and further, to concentrate these subsidies on a few products. This asymmetry needs to be addressed as a first step in agricultural reform through a post-MC11 work programme without, however, shifting the burden of reduction of agricultural subsidies to developing countries... Turning to some of the new issues that are sought to be introduced into the negotiating agenda of the WTO, in India's view agreeing to these would be extremely divisive. Many of these issues are neither trade-related nor have these been discussed in detail... In this context, shifting the priority from DDA issues to non-trade issues like Investment Facilitation and

MSMEs, for which there is no mandate, is difficult to accept.'

Government Launches Scheme for Protection of Majuli Island in Assam

On 30 December 2017, the Union Government of India has Launched new Scheme for Protection of Majuli Island in Assam from flood and erosion. The scheme was sanctioned by Indian Government in March, 2017 and funding for it will be from Ministry of Development of North Eastern Region (DoNER).

Road-map for Talanoa Dialogue Prepared at Bonn UN Climate Change Conference

The UNFCCC Climate Change Conference (COP23) was held on 6-18 November 2017 in Bonn, Germany and was presided over by Government of Fiji. It concluded with countries putting place a roadmap for 'Talanoa Dialogue', a year-long process to assess countries' progress on climate actions. The Conference also made progress on framing rules for implementing 2015 Paris Agreement on climate change and brought rich nations on board on their pre-2020 commitments as demanded by developing nations.

Creating and Sustaining Markets for Energy Efficiency Project Launched by EESL in Partnership with GEF

The Energy Efficiency Services Limited (EESL), under Ministry of Power in partnership with Global Environment Facility (GEF) has launched on November 3, 2017 Creating and Sustaining Markets for Energy Efficiency project. The project will help in recognizing India's efforts towards a low emission-economy and focusing on energy efficiency programmes. Currently around two-thirds of total power generation capacity in India is based on fossil fuels. By 2030, India is committed to achieve 40% of the installed capacity based on clean energy sources.

India to Host UN Summit on Conservation of Migratory Species in 2020

The United Nations Environment Programme (UNEP) has announced that India will host next Convention on the Conservation of Migratory Species of Wild Animals (CMS) Conference of Parties 13 (CMS COP13) in year 2020. CMS COP is also know as a Global Wildlife Conference. The announcement was made during 12th Meeting of the Conference of the Parties 12 (COP12) to CMS held in Manila, Philippines. It was held from 23 to 28 October 2017 and was attended by over 500 delegates from more than 91 countries participated in the summit which is held once in three years. The theme of the CMS COP12 was "Their Future is Our Future – Sustainable Development for Wildlife and People". This was for first time the summit was held in Asia. The CMS COP12 was also the largest-ever meeting in the 38-year history of the convention.

SC Bans Dirty Pet-coke, Furnace Oil in Haryana, Rajasthan, UP

The Supreme Court banned use of pet-coke and dirty furnace oil in Haryana, Rajasthan and Uttar Pradesh from November 1, 2017 in a bid to reduce air pollution in Delhi and National Capital Region (NCR). The apex court bench comprising Justice Madan B Lokur and Justice Deepak Gupta was hearing on PIL filed in 1985 by environmentalist M.C. Mehta who had raised the issue of air pollution in the Delhi-NCR. Pet coke and furnace oil has been already banned in Delhi since 1996 as they have been blamed for releasing deadly sulphur dioxide (SO_2) and nitrogen oxide (NO) fumes into air and polluting air.

Government Allows NGT to Form One-member Bsenches

The Union Environment Ministry notified on 6 December 2017 and allowed NGT Chairperson to "constitute a single-member bench" in "exceptional circumstances". It has amended National Green Tribunal (Practices and Procedure) Rules, 2011 and issued notification. However, it has not defined "exceptional circumstances". This move will address festering problem of vacancies in NGT. According to earlier rules, NGT bench consisted of "two or more members" with at least one judicial member and another expert. The balance of judicial and independent experts was necessary to ensure that technical aspects of disputes were adequately addressed.

Forthcoming Events

Discussion on "The Legal Status of Jerusalem: International Law and UN Resolutions", by Dr. Sujata Ashwarya, Assistant Professor, Jamia Millia Islamia, New Delhi on 5 January 2018

Discussion on "Freedom of Speech: An International and Comparative Law Approach", by Ms. Shivani Mishra, Independent Researcher, on 2 February 2018

Public Lecture on "International Exhaustion in Copyrights and Patent" by Prof. Subha Ghosh, Crandall Melvin Professor of Law, College of Law, Syracuse University, New York, on 12 February 2018

Discussion on "UNCITRAL and the Reform of Investor-State Dispute Settlement", by Shri M. K. Rao, Former Legal Advisor at the Permanent Mission of India to the UN, New York on 9 March 2018

47th Annual Conference of the ISIL, 12 and 13 May 2018