FOREWORD

The ICSID Convention of 1965 established a unique legal mechanism for the resolution of disputes between investors and States. Although its drafters certainly understood the extraordinary potential of the ICSID mechanism, it is probably fair to say that many observers did not grasp the transformative nature of this system until at least two or three decades after it came into force. Today there is no doubt that the ICSID Convention and its rules and regulations have become one of the most important and effective international legal tools of this century.

Those who study the ICSID Convention and the rules implementing this treaty recognize the sophistication of the system that was designed under the watchful eye of Aron Broches and his legal staff in the World Bank. The provisions of the treaty and its rules strike a careful balance between the rights of investors and States, which is evident in the tribunal procedures as well as in the post-Award proceedings that so carefully balance the competing demands of finality and correctness.

This new commentary, envisioned and realized by Julien Fouret, Rémy Gerbay and Gloria Alvarez, is a tremendous analysis of the foundational documents of the ICSID system. The contributors are experts in the field, as counsel, arbitrators and academics in investor-State matters, and each has a well-informed perspective on their material.

Each chapter analyses an article, rule or paragraph of the Convention or ICSID rules. While the chapters have a similar overall format, each author has focused on the most relevant sources of law that have contributed to the development of the jurisprudence on their provision. As a result, the drafting history, the language of the final provision, the public international law foundations of specific rules, the case law interpreting the rule, and the commentary on it are canvassed in each chapter. The authors also provide useful practice insights, and very helpful references to related parts of the Convention and rules, demonstrating their understanding of the system as a whole. In a number of instances, the authors link the current state of the law with proposed amendments in the current ICSID amendment process and add their views not only on what has been established to date, but what might be expected in the future.

The result is a succinct, interesting and practical guide which anyone interested in this field will certainly want to add to their library. The authors and editors have taken on a vast topic and encapsulated it into a very practical and user-friendly text that will certainly contribute to the continued development of the field.

Meg Kinnear
ICSID Secretary-General
January 2019