

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

**Investor–State Disputes:
Prevention and Alternatives to
Arbitration**

**UNCTAD Series
on International Investment Policies for
Development**



**UNITED NATIONS
New York and Geneva, 2010**

NOTE

As the focal point in the United Nations system for investment and technology, and building on 30 years of experience in these areas, UNCTAD, through its Division on Investment and Enterprise (DIAE), promotes understanding of key issues, particularly matters related to foreign direct investment and transfer of technology. DIAE also assists developing countries in attracting and benefiting from foreign direct investment (FDI) and in building their productive capacities and international competitiveness. The emphasis is on an integrated policy approach to investment, technological capacity building and enterprise development.

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The following symbols have been used in the tables:

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A dash (-) indicates that the item is equal to zero or its value is negligible;

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A slash (/) between dates representing years, e.g. 1994/1995, indicates a financial year;

Use of a hyphen (-) between dates representing years, e.g. 1994-1995, signifies the full period involved, including the beginning and end years.

Reference to “dollars” (\$) means United States dollars, unless otherwise indicated.

Annual rates of growth or change, unless otherwise stated, refer to annual compound rates.

Details and percentages in tables do not necessarily add to totals because of rounding.

The material contained in this study may be freely quoted with appropriate acknowledgement.

UNCTAD/DIAE/IA/2009/11

UNITED NATIONS PUBLICATION
<i>Sales</i> No. E.10.II.D.11
ISBN 978-92-1-112793-5
ISSN 1814-2001

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Printed in Switzerland

PREFACE

The secretariat of the United Nations Conference on Trade and Development (UNCTAD) is implementing a programme on international investment arrangements. It seeks to help developing countries to participate as effectively as possible in international investment rule-making. The programme embraces policy research and development, including the preparation of a series of issues papers; human resources capacity-building and institution-building, including national seminars, regional symposia, and training courses; and support to intergovernmental consensus-building.

This paper is part of a new Series on International Investment Policies for Development. It builds on, and expands, UNCTAD's Series on Issues in International Investment Agreements. Like the previous one, this new series is addressed to Government officials, corporate executives, representatives of non-governmental organizations, officials of international agencies and researchers.

The Series seeks to provide a balanced analysis of issues that may arise in the context of international approaches to investment rule-making and their impact on development. Its purpose is to contribute to a better understanding of difficult technical issues and their interaction, and of innovative ideas that could contribute to an increase in the development dimension of international investment agreements.

The Series is produced by a team led by James Zhan. The members of the team include Bekele Amare, Anna Joubin-Bret, Hamed El-Kady, Tamas Pal Heisz, Jan Knörich, Diana Rosert, Ileana Tejada, Elisabeth Tuerk and Jörg Weber. Members of the Review Committee are Jack Coe, Susan Franck, Barton Legum, Peter Muchlinski, Jeswald W. Salacuse and Margrete Stevens.

This paper was prepared by Anna Joubin-Bret and Jan Knörich. Susan Franck, Nicolas Perrone, Elisabeth Tuerk and Jörg Weber made comments, and Tamas Pal Heisz and Diana Rosert helped finalize the paper. It benefited from comments during a peer forum on “*Investor–State Dispute Settlement*” in July 2009, which took place in Miami and was jointly organized with the University of Miami. Further comments were received from exchanges of experts in preparation for the Washington and Lee University and UNCTAD Joint Symposium on International Investment and ADR.

The paper provides a timely discussion of a crucial issue in contemporary international investment policy making, implementing UNCTAD’s mandate in the area of international investment agreements emanating from the Accra Accord (paragraph 151).

Supachai Panitchpakdi
Secretary-General of UNCTAD

Geneva, May 2010

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