



**International Centre for  
Settlement of Investment Disputes**



**Organisation for Economic  
Co-operation and Development**



**UNITED NATIONS  
CONFERENCE  
ON TRADE AND  
DEVELOPMENT**

***SYMPOSIUM CO-ORGANISED BY ICSID, OECD AND UNCTAD***

**MAKING THE MOST OF INTERNATIONAL INVESTMENT AGREEMENTS:  
A COMMON AGENDA**

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Room 1, OECD Headquarters, Paris***

**Opening remarks by James X. Zhan,  
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Chair, Excellencies, Ladies and Gentlemen,

It is a great pleasure for me to add my welcome to you today. UNCTAD is privileged to be one of the three organizers of this Symposium. It is important to take stock on international investment rule-making, identify emerging issues and analyse the development impact. Therefore, it is timely to hold this Symposium.

The past decade saw an intense proliferation of international investment agreements at the bilateral, regional and inter-regional levels. Last year alone, more than three such agreements were signed per week. Today, the universe of international investment agreements consists of over 5,000 such treaties.

Several developments are worth noting in this context. First, the universe of bilateral investment treaties and bilateral double taxation treaties continued to expand. There are now close to 2,400 bilateral investment treaties and 2,560 double taxation treaties. Second, international investment rules are also increasingly being formulated as part of agreements that encompass a broader range of issues (including notably trade in goods and services, and other factors of production). So far, 220 such agreements contain investment provisions. Third, the investment provisions in the new agreements tend to be increasingly sophisticated and complex in content, clarifying in greater detail the meaning of certain standard clauses. Forth, an increasing number of bilateral investment treaties are re-negotiated, either because the original treaties have reached its expiry date or because of changed circumstances. Fifth, South-South cooperation on international investment policy is intensifying. And, sixth, the increasing activity in international investment treaty-making has been paralleled by a rise in investor-State disputes. As a result of these developments, countries -- and firms -- have to operate within an increasingly complicated framework of multi-layered and multi-faceted investment rules with overlapping obligations and commitments, and also with gaps.

Making the international investment agreements work *for development* stands at the heart of UNCTAD's longstanding effort in this area. This is not only a question of ensuring that the development dimension is adequately addressed in international investment law, but also a question of building the related capacity in developing countries to implement investment agreements, so as to make these

agreements effective for attracting and benefiting from foreign investment. The latter may be more important today, given the more than 5,000 investment treaties in existence and the resulting multi-layered and multifaceted character of the international investment system. The capacity to implement agreements relates to completing the ratification process, bringing national laws and practices into conformity with treaty commitments, informing and training local authorities that actually have to apply the international agreements, managing the disputes that arise under these agreements, and re-evaluating investment policies in light of national development strategies and past experience.

Our symposium today focuses on the issue of investor-State dispute settlement. This is not only an issue of how to improve the system, but also an issue of how to help developing countries build their capacity to cope with the emerging challenges.

On the former aspect, we are making available to you today our update on latest developments in the field of investor-State dispute settlement, both as regards the overall trends and the substantive developments over the past twelve months. The number of new claims has reached 42 new cases this year, with a total of 219 known cases by November 2005. At least 61 governments – 37 of them in the developing world, 14 in developed countries and 10 in Southeast Europe and the Commonwealth of Independent States – have faced investment treaty arbitration. UNCTAD has been monitoring these trends and analyze their implications.

On the latter aspect, it is important to stress that a lot of effort is required in order to level the playing field in this area, and to ensure that developing countries feel themselves in a position to effectively play by the rules of the game.

International organizations can play a role in addressing the challenges developing countries are faced with in this context. UNCTAD has a long-established programme on international investment agreements, dealing with research and policy analysis, advisory services and capacity building, and international consensus-building. We recently successfully concluded our first training session on the management of investor-State disputes in cooperation with the OAS, and hosted by the American University. We plan to have similar training sessions in other regions in collaboration with some regional organizations.

UNCTAD is looking forward to building on what we have achieved already and to further strengthen our cooperation with all the relevant organizations, including OECD and ICSID.

Thank you.