



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

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

*12 December 2005, Paris  
Room 1, OECD Headquarters, Paris*

**Opening remarks by Richard Hecklinger  
Deputy Secretary-General, OECD**

On behalf of the OECD, I would like to welcome to this Symposium all participants, representatives of OECD and non-OECD countries, private sector practitioners, academics and NGO representatives. This is, in my knowledge, the first *global* event of this kind, where all constituencies are present, to discuss issues related to investment arbitration.

I would like also to thank Mr. Roberto Dañino, Secretary General of ICSID and Mr. James Zhan, Head of the International Arrangements Section in UNCTAD for joining me in this opening of the Symposium. The OECD Investment Committee invited your organizations to jointly organise this Symposium because all three of them play a significant and complementary role in the field of investment agreements –whether monitoring and analysing investment agreements and disputes or acting as a secretariat of a dispute settlement forum. All three have been working intensively the last few years on getting abreast of rapid developments in this field. Now time has come to share perspectives on emerging issues with all interested constituencies.

***International Investment Agreements -- a rapidly changing landscape***

Why do international investment agreements (IIAs) matter? They matter because they provide additional security and predictability for investors; they consolidate domestic policy efforts to attract and maintain stable investment inflows to the benefit of growth and prosperity.

This Symposium comes at a critical juncture. The number of IIAs has been growing very rapidly in the last decade. There are some 2400 BITs and 170 Regional Trade Agreements with investment chapters. Dozens more are currently under negotiations. OECD statistics suggest that around 40 per cent of total FDI from OECD countries to non-OECD countries are today covered by IIAs. In addition, South-South IIAs are expanding at a very rapid pace.

At the same time, IIAs are increasingly known and used, in particular their investor-state dispute settlement provisions. UNCTAD statistics calculate that there are currently 170 investment disputes pending; half of them brought in the last 3 years.

The pursuit of high standards has historically been a major driving force behind OECD dialogue on investment policy. Our recent survey of OECD IIAs shows that governments are bringing innovations to their treaties. These include more extensive liberalisation disciplines but also greater clarity of the scope of application of the substantive and procedural provisions of the agreements and interpretative notes to clarify the intent of the parties.

In the last two years at the OECD Investment Committee, policy makers have engaged in extensive dialogue on these new developments with a view to enhancing understanding of emerging issues and identifying room for improvement. The Committee has published the first phase of its work on some of the important substantive issues, such as “Fair and Equitable Treatment”, “Indirect Expropriation and the Right to Regulate” and “The Most Favoured Nation Treatment”. It also published its work on “Transparency and Third Party Participation in Investment Arbitration” and in June 2005 issued a public statement calling for additional transparency.

### ***"Making the most of IIAs: a common agenda"***

Why was this title chosen for this Symposium?

Indeed, OECD and non-OECD governments have a lot to share. For instance, the OECD and non-OECD governments are working together to identify criteria to articulate the important differences between the right to regulate not requiring compensation and regulatory taking calling for compensation.

Governments, private investors and arbitrators have a common interest in ensuring that the investor-state arbitration system works well and is well accepted.

Civil society has an interest too when investor-state disputes often raise issues of public interest and wish to be informed on current cases and have its voice heard during the arbitration proceedings.

Finally, international organisations such the OECD, ICSID and UNCTAD, active in the field, are currently considering ways to join forces to better serve their members' needs

### ***Expected outcomes of the Symposium***

What are the expected outcomes of this Symposium? We will call upon the world's best experts in this field who are present here today, to express their views and assist us all to improve our understanding of the emerging issues. We will look forward to proposals for improving the arbitration system and ideas for partnership initiatives among international organizations, in particular in the strengthening of technical assistance and capacity building.