



## INTERNATIONAL INVESTMENT DISPUTE SETTLEMENT PROCEDURE

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### ABSTRACT

*This resorch shows the investment disputes that arise within the framework of international investment law, types of investment disputes, countries where they are most common, investment dispute resolution mechanisms, good and bad effects of investment disputes on the economy.*

### INTRODUCTION:

An international investment dispute is a legal disagreement between a foreign investor and a host country. These disputes typically arise when a foreign investor believes that their investment has been unfairly treated by the host country, such as through expropriation, discrimination, or breach of contract. International investment disputes are typically resolved through international arbitration, which is a legal process that involves an independent tribunal hearing arguments from both sides and making a binding decision.

### MAIN FEATURES:

Investment disputes can be complex and challenging to navigate. Some of the main features of investment disputes include:

1. Breach of contract: Investment disputes often arise from a breach of contract between the parties involved. This can include disputes over payment terms, delivery schedules, or other contractual obligations.
2. Regulatory issues: Investment disputes can also arise from regulatory issues, such as changes in laws or regulations that affect the investment.
3. Disagreements over valuation: Disputes can also arise over the valuation of the investment, particularly if there are disagreements over the value of assets or the performance of the investment.
4. Disputes over control: Investment disputes can also arise from disagreements over control of the investment, such as disputes over management decisions or ownership rights.
5. International disputes: Investment disputes can also involve international parties, which can add an additional layer of complexity to the dispute resolution process.

### IMPACT ON ECONOMY:

Investment disputes can have a significant impact on the economy. Investment disputes can lead to a loss of investor confidence, which can discourage future investment and harm economic growth. They can also lead to a loss of jobs and income, particularly in industries that are heavily dependent on foreign investment.

Investment disputes can also have a negative impact on the reputation of a country, particularly if the dispute is not resolved in a timely and fair manner. This can make it more difficult for the country to attract future investment and can harm its international standing.

In addition, investment disputes can be costly and time-consuming to resolve, particularly if they involve international parties or complex legal issues. This can divert resources away from other important economic activities and can harm the overall competitiveness of a country.

Investment disputes can have a positive impact on the economy in some cases. While investment disputes are generally seen as a negative development, they can also lead to positive outcomes in certain situations. Here are some examples:

- Improved legal framework: Investment disputes can lead to changes in the legal framework that governs investment, which can improve the overall investment climate and attract more investment to the country.
- Increased transparency: Investment disputes can lead to increased transparency in the investment process, which can help to prevent future disputes and improve the overall investment climate.
- Better risk management: Investment disputes can help investors to better manage their risks by highlighting potential risks and challenges associated with investing in a particular country or industry.
- Improved governance: Investment disputes can lead to improvements in governance and accountability, which can help to prevent future disputes and improve the overall investment climate.
- Increased awareness: Investment disputes can raise awareness of the importance of protecting investors' rights and can lead to increased efforts to protect those rights in the future.

#### **MOST COMMON COUNTRIES:**

Investment disputes can occur in any country, but some countries have experienced more frequent investment disputes than others. According to data from the International Centre for Settlement of Investment Disputes (ICSID), the countries with the most frequent investment disputes are:

- ✓ Venezuela: Venezuela has had the highest number of investment disputes filed against it, with a total of 41 cases as of 2020.
- ✓ Argentina: Argentina has had the second-highest number of investment disputes filed against it, with a total of 38 cases as of 2020.
- ✓ Czech Republic: The Czech Republic has had the third-highest number of investment disputes filed against it, with a total of 36 cases as of 2020.
- ✓ Spain: Spain has had the fourth-highest number of investment disputes filed against it, with a total of 33 cases as of 2020.
- ✓ Egypt: Egypt has had the fifth-highest number of investment disputes filed against it, with a total of 29 cases as of 2020.

### **DISPUTE RESOLUTION MECHANISMS:**

There are several investment dispute resolution mechanisms available to parties involved in investment disputes. These mechanisms include:

1. **Negotiation:** Negotiation is often the first step in resolving an investment dispute. This involves the parties involved in the dispute attempting to reach a mutually acceptable solution through direct discussions.
2. **Mediation:** Mediation involves a neutral third party who helps the parties involved in the dispute to reach a mutually acceptable solution. The mediator does not make a decision but instead facilitates the negotiation process.
3. **Arbitration:** Arbitration is a more formal process that involves a neutral third party who makes a binding decision on the dispute. The decision of the arbitrator is final and can be enforced in court.
4. **Litigation:** Litigation involves taking the dispute to court, where a judge or jury makes a decision on the dispute. Litigation can be a lengthy and expensive process, but it may be necessary in some cases.
5. **Conciliation:** Conciliation is a process similar to mediation, but the conciliator has a more active role in proposing solutions to the parties involved in the dispute.

Administrative settlement of investment disputes is another mechanism available to parties involved in investment disputes. Administrative settlement involves resolving the dispute through administrative channels, such as government agencies or regulatory bodies.

Administrative settlement can be a faster and less expensive option than traditional dispute resolution mechanisms such as arbitration or litigation. It can also be a more flexible option, as the parties involved in the dispute can work together to find a mutually acceptable solution.

However, administrative settlement may not be appropriate for all types of investment disputes. It may be more suitable for disputes that involve regulatory issues or disputes that can be resolved through negotiation or mediation.

Settlement of investment disputes through judicial protection is another mechanism available to parties involved in investment disputes. This involves resolving the dispute through the court system.

The process of settling investment disputes through judicial protection can be lengthy and expensive, but it can also provide a final and binding decision on the dispute. The court system can also provide a more formal and structured process for resolving disputes, which can be beneficial in complex cases.

The settlement of investment disputes through judicial protection can involve different stages, including:

- **Filing a claim:** The first step in settling an investment dispute through judicial protection is to file a claim with the appropriate court. This involves submitting a written complaint that outlines the nature of the dispute and the relief sought.
- **Discovery:** The discovery process involves gathering evidence and information related to the dispute. This can include depositions, interrogatories, and requests for documents.
- **Pre-trial motions:** Pre-trial motions can be filed by either party to request that the court take certain actions, such as dismissing the case or excluding evidence.

- Trial: The trial involves presenting evidence and arguments to the court, and the court makes a final decision on the dispute.
- Appeals: Either party can appeal the decision of the court if they believe that errors were made during the trial.

Settlement of investment disputes through negotiation and mediation is a popular and effective mechanism for resolving investment disputes. This involves the parties involved in the dispute attempting to reach a mutually acceptable solution through direct discussions or with the help of a neutral third party.

Negotiation and mediation can be a faster and less expensive option than traditional dispute resolution mechanisms such as arbitration or litigation. It can also be a more flexible option, as the parties involved in the dispute can work together to find a mutually acceptable solution.

The process of settling investment disputes through negotiation and mediation can involve different stages, including:

- Pre-mediation preparation: This involves preparing for the mediation process, including selecting a mediator and gathering relevant information and documents.
- Mediation session: The mediation session involves the parties involved in the dispute meeting with the mediator to discuss the dispute and attempt to reach a mutually acceptable solution.
- Settlement agreement: If the parties are able to reach a mutually acceptable solution, a settlement agreement is drafted and signed by all parties involved in the dispute.

Settlement of investment disputes under diplomatic protection procedure is another mechanism available to parties involved in investment disputes. This involves the home state of the investor taking diplomatic action to protect the investor's interests in the host state. The diplomatic protection procedure can be initiated by the home state of the investor if it believes that the host state has violated its obligations under international law. The home state can take diplomatic action, such as making a formal complaint to the host state or initiating diplomatic negotiations to resolve the dispute.

The settlement of investment disputes under diplomatic protection procedure can involve different stages, including:

1. Diplomatic negotiations: The home state of the investor can initiate diplomatic negotiations with the host state to resolve the dispute.
2. Diplomatic protection: If diplomatic negotiations are unsuccessful, the home state of the investor can take diplomatic action to protect the investor's interests, such as making a formal complaint to the host state or initiating legal proceedings.
3. International arbitration: If diplomatic protection is unsuccessful, the investor can initiate international arbitration proceedings against the host state under the provisions of a bilateral investment treaty or other international agreement.

## **CONCLUSION:**

In conclusion, investment disputes can have a significant impact on the economy and can lead to a loss of investor confidence, a negative impact on the reputation of a country, and costly and time-consuming legal battles. However, investment disputes can also lead to positive outcomes, such as improved legal frameworks, increased transparency, better risk management, improved governance, and increased awareness of the importance of protecting

investors' rights.

It's important for investors to carefully consider the potential risks and challenges associated with investment disputes before entering into any investment agreements or contracts. Seeking the guidance of a qualified legal professional can help investors navigate these complex issues and protect their interests.

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