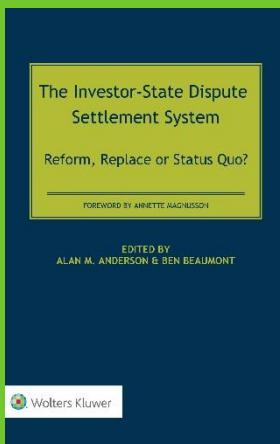


The Investor-State Dispute Settlement System Reform, Replace or Status Quo?

Edited by Alan M. Anderson & Ben Beaumont



Overview

Investor-State disputes are increasing and damage awards are often significant. It is thus no surprise that the investor-State dispute settlement (ISDS) system has come under scrutiny. Perceptions have arisen that ISDS is inconsistent, lacks transparency, and is simply unfair. This book delves into the ongoing worldwide debate and discussions regarding the ISDS system. Drawing contributors from around the world, the authors provide insights on critical topics and address the key question facing the ISDS system and the international community it serves: Should the present ISDS system be reformed, replaced, or simply remain as is?

The contributors represent points of view ranging from academia to practice to governmental entities, addressing such topics as:

- the possible consequences of wholesale replacement or elimination of the current ISDS system;
- mediation as an alternative to resolve ISDS disputes;
- the creation of a multinational investment court or appellate review mechanism;
- lack of an early dismissal mechanism to eliminate meritless claims;
- issues regarding arbitrators, including their appointment and ethical obligations;
- how investors may retain their right to pursue claims for violations of investment protection following termination of an agreement;
- a State's right to assert a counterclaim against an investor-claimant;
- the role of ISDS in promoting and protecting renewable energy production;
- the liability of State-controlled entities;
- the effects and implications of third-party funding;
- the duty to mitigate damages in the light of excessive damages awards; and
- improvements and issues relating to post-award enforcement, duration, and cost of ISDS.

This book considers the ongoing deliberations and reform measures proposed by UNCITRAL's Working Group III and provides insights into how several geographic regions and economic cooperation areas have sought to address the question of reform of the ISDS system, including the European Union, the Middle East, and the new United States-Mexico-Canada Agreement.

With its much-needed and deeply informed balancing of investor and State rights and duties, this book will be welcomed by all who practise in the ISDS field, including arbitrators, State governments and non-governmental organizations, regional economic organizations, and international investors.

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ISBN: 9789403517551 • **Released:** November 2020

Price: € 179 - \$ 200 - £ 157 • **Format:** Hardcover, 528pp

Available in our **eStore** and **Digital Book Platform**