

Towards a Repository of Policy Options for IIA Reform

Research Project

Investment and Development – Friends or Foes?¹

Mr. Christian J. Tams
University of Glasgow
United Kingdom

This academic workshop was held in March 2013 at Frankfurt, co-hosted with Professors Rainer Hofmann (Frankfurt) and Stephan Schill (Amsterdam and Max Planck Institute Heidelberg). The results of the workshop will be published in book form in mid-2015 in the *Frankfurt Investment and Economic Law series* (Edward Elgar).

The workshop and book are driven by the editors' conviction that **there is room for constructive dialogue between investment and development communities**. Such a dialogue has so far been lacking, but recent initiatives, notably by UNCTAD, emphasise the need for it. Exploring options for constructive dialogue, the contributions to the book address three sets of issues: (i) **the conceptual linkages between investment and development**; (ii) **the reception, within investment law, of the idea of development as self-determination**; and (iii) **the social dimension of development and its impact on investment law debates**. Throughout, contributors analyse case-law and treaty practice; their contributions assess the state of the law as well as advancing proposals for reform.

Among the issues discussed are

- **Sustainable development** and its reflection in international investment agreements;
- The current relevance (if any) of claims to **permanent sovereignty over resources**;
- The **democratic dimension** of development discourses, especially with regard to the Arab spring;
- The potential contribution, of investment law and development, to **poverty reduction**.

In the thematic introduction, the editors summarise the rationale for the workshop and ensuing book in the following terms:

“On the one hand, investment and development appear to be closely inter-connected from an economic perspective. Achieving the aims of sustainable development in particular is barely possible without investment, including foreign investment. ... On the other hand, the discourse on investment and development, especially in international legal scholarship, has rarely sought to integrate investment and development. Although those who practice and analyze international investment law and investment dispute settlement are aware of the development implications of the field, they seldom understand their practice as part of an international law of development.”

¹ The opinions expressed in this paper are those of the author and do not necessarily reflect the views of the UNCTAD Secretariat or its Member States.

They express their hope that

“[[t]his may change with the conclusion of a new generation of investment treaties which draw more explicit links between investment protection and development, the interpretation of investment treaty disciplines in light of the concept of sustainable development, and with the emerging analysis of the impact of the right to development on international investment policies.”

The workshop and book should be seen as an attempt to **facilitate such a more informed discourse.**

ⁱ This report will be updated when the book is published. The list of contributors includes, among others, M. Sornarajah, J. Bonnitcha, Y. Radi, M.C. Cordonnier-Segger, M. Gehring, D. Desierto, C. Binder, W. Ben Hamida M. Desta, I. Feichtner, A. Saldarriaga, K. Magraw.