



HIGHER SCHOOL OF ECONOMICS
NATIONAL RESEARCH UNIVERSITY

International Investment Arbitration in Asia

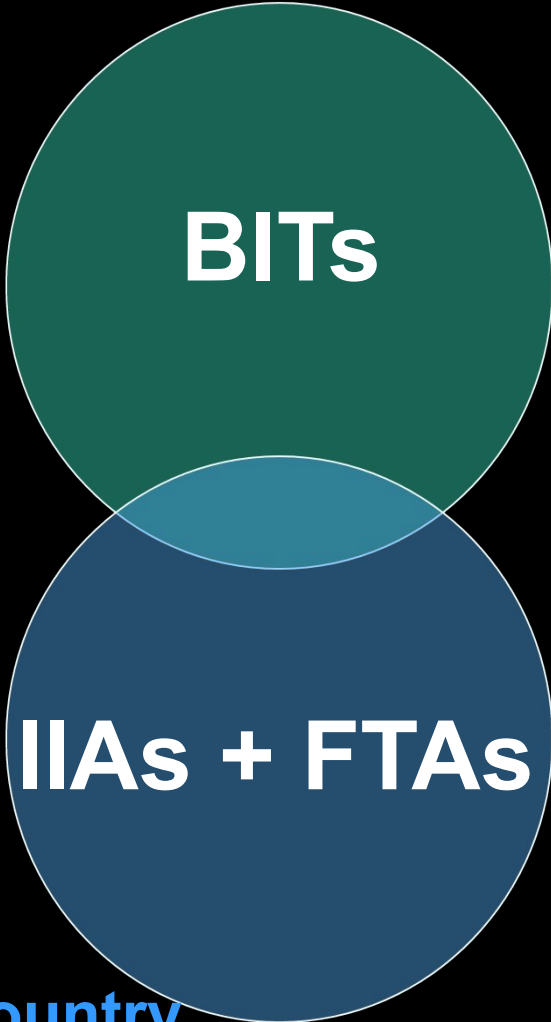
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ROAD MAP



- Investment
- Scope of correlative issues
- The choice of forum and parallel litigation
- Conclusions

INVESTMENT



+ contribution to economic development of the host country

Correlative issues



Nationality of investor
Qualified and approved investment
Issues of economic contribution

Claims by minority shareholders
Forum-shopping
Code of arbitrators

Cultural barriers
Underrepresented groups
Consultancy

The choice of forum

DISPUTE SETTLEMENT UNDER WTO

- state-to-state dispute

DISPUTE RESOLUTION UNDER IIAs, FTAs & BITs

- state-investor dispute
- Violation of MFN and National Treatment Regime requirements

PARALLEL LITIGATION APPROACH

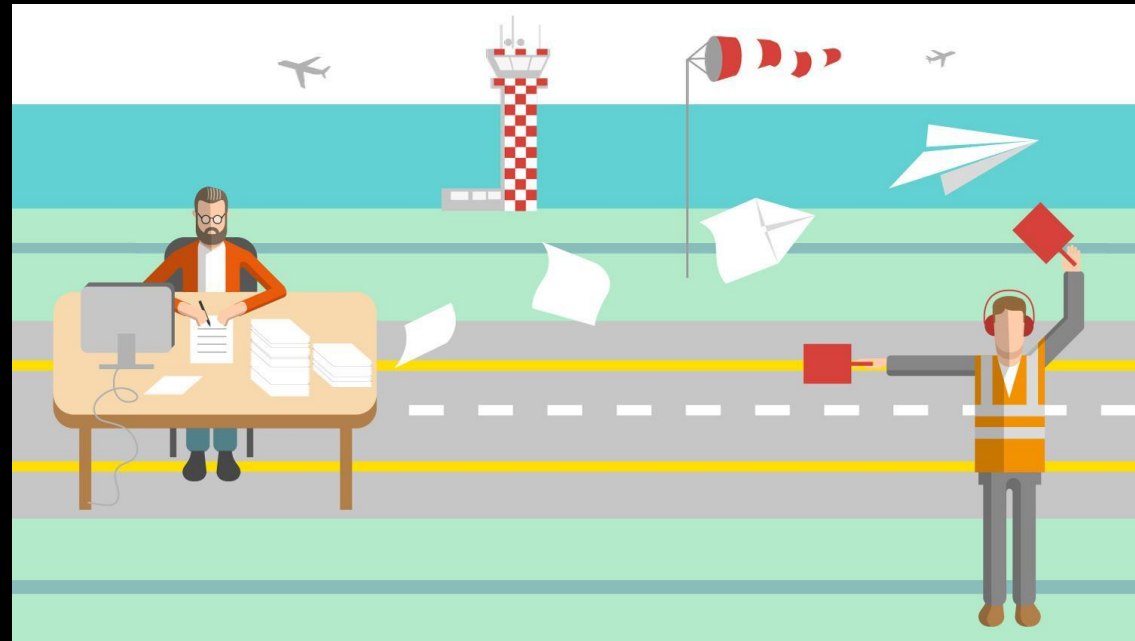
Definition of the dispute scope:

- Claims, arising from the same state measures but involving different parties
- Claims, implicating different legal grounds under the relevant treaty provisions, and seek different remedies

Cases

- **Asian Agricultural Products Ltd. v. Republic of Sri Lanka, ICSID Case No. ARB/87/3, Final Award (Juny, 1990).**
- **Daimler Financial Services AG v. Argentine Republic, ICSID Case No. ARB/OS/1, Award (August, 2012).**
- **Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain), Judgment, I.C.J. Reports (February, 1970).**
- **Jan de Nul NV Dredging International NV v. Arab Republic of Egypt, ICSID Case No. ARB/04/13, Decision on Jurisdiction (June, 2006).**
- **Malaysian Historical Salvors, SDN, BHD v. The Government of Malaysia, ICSID Case No. ARB/05/10, Award on Jurisdiction (May, 2007).**
- **Phoenix Action Ltd. v. the Czech Republic, ICSID Case No. ARB/06/5, Award (April, 2009).**
- **Salini Costruttori SPA and Italstrade SPA v. the Kingdom of Morocco, ICSID Case No. ARB/00/4, Decision on Jurisdiction (July 23, 2001).**
- **Tokios Tokeles v. Ukraine, ICSID Case No. ARB/02/18, Decision on Jurisdiction (April, 2004).**
- **Philip Morris Asia Limited (Hong Kong) v. The Commonwealth of Australia, UNCITRAL, Case No. 2012-12, Award on Jurisdiction and Admissibility (December, 2015).**

Questions?



THANK YOU FOR YOUR ATTENTION !