



APEC-UNCTAD REGIONAL TRAINING COURSE ON THE CORE ELEMENTS OF INTERNATIONAL INVESTMENT AGREEMENTS IN THE APEC REGION

Presentations

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Scope and Definition on Investment and Investor

Chile's Approach

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CHILE

DEFINITION ON INVESTMENT AND RELATED COMMITMENTS AND DISCIPLINES

Related Commitments and Discipline

- Scope and coverage: Broader definition the MORE protection to the investor
 - Every kind of asset
 - Specific assets
 - Exception: Public Debts
- in NT, MFN etc
- Transfer: commitment to permit transfer (in and/or out)

BITS

- **CROATIA**
 - "investment" means any kind of asset, provided that the investment has been admitted in accordance with the laws and regulations of other Contracting Party, and shall include in particular, though not exclusively :
- **INDONESIA**
 - "investment" means any kind of asset, provided that the investment has been transferred to the territory of the other Contracting Party and has been admitted in accordance with the laws and regulations of the other Contracting Party, and shall include in particular, although not exclusively:

Kinds of assets and exclusion

- movable and immovable property and any other property rights, shares, stock and any other kind of participation in companies, a loan or other claim to money etc
 - Non exhaustive list but included in the list imply an obligation
 - Exception
 - Does not include a debt instrument of a Party or state enterprise

FTA

- CANADA/MEXICO (NAFTA)**
 - **investment** means:
 - an enterprise;
 - a debt security of an enterprise
 - where the enterprise is an affiliate of the investor, or
 - a loan to an enterprise
 - contracts involving the presence of an investor's property in the territory of the Party, including turnkey or construction contracts, or concessions. or
- USA**
 - **investment** means every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:...

DEFINITION ON INVESTOR AND RELATED COMMITMENTS AND DISCIPLINES

Related Commitments and Discipline

- Scope and coverage: Broader definition more protection to the investor
 - Party and State enterprise
 - enterprise of a Party (juridical person)
 - national of a Party
- Level of Protection (pre or post establishment)
- Definition of "seeks to invest"
- Disciplines and commitments NT, NMF.

Investor

Chile – Croatia BIT

- "investor" means the following subjects which has made an investment in the territory of the other Contracting Party in accordance with the present Agreement :
 - (a) natural persons who, according to the law of that Contracting Party, are considered to be its nationals;
 - (b) legal entities, including companies, corporations, business associations and other legally recognised entities. Which are constituted or otherwise duly organised under the law of that Contracting Party and have their seat together with effective economic activities in the territory of that same Contracting Party.

Investor

Chile –USA

- **investor of a Party** means a Party or state enterprise thereof, or a national or an enterprise of a Party, that attempts to make, is making, or has made an investment in the territory of the other Party; provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the State of his/her dominant and effective nationality;

Investor

Chile – Colombia

- **investor of a Party** means a Party or state enterprise thereof, or a national or an enterprise of a Party, that attempts to make^[1], is making, or has made an investment in the territory of the other Party; provided, however, that a natural person who is a dual national shall be deemed to be exclusively a national of the State of his/her dominant and effective nationality;
- ^[1] For greater certainty, the Parties understand that an investor attempts to make an investment when has made the essentials acts necessary to concrete an investment, such as the canalization of resources for the constitution of the capital of an enterprise and the obtainment of permits or licences, among others.



¡¡Thanks!!
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