

NCCR Trade Regulation Brown Bag Series

Cédric Dupont, Professor of International Relations and Political Science and Director of Executive Education at the Graduate Institute, Geneva

Good, bad or ugly? An empirical study of the resort to investment arbitration

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Anna Nussbaum Auditorium, World Trade Institute, University of Bern
Hallerstrasse 6, 3012 Bern, Switzerland

Abstract

Investment arbitration has made the headlines both given its potential to overly restrict the policy space of states and its significant costs for parties. Against this background it is worth raising the issue of its legitimacy from an output perspective. We investigate this question by first considering why investment arbitration is used. We start from the hypothesis that investment arbitration is a means of last resort that occurs as a response to the realisation of two types of shocks towards investors – shocks coming from dysfunctional governance at the national level and economic crisis. Whereas investment arbitration could gain legitimacy if used to redress or mitigate severe governance deficiencies, its use in the context of economic crisis could be viewed as a double sanction as it would hurt further countries in great difficulty. We test links between governance, economic crises and investment arbitration using an original dataset that includes investment claims filed under the rules of all arbitration institutions as well as ad hoc arbitrations. We find that bad governance, understood as corruption and lack of rule of law, has a statistically significant relation with investment arbitration claims, but economic crises do not when considered separately. Yet, bad governance and economic crises considered together are a good predictor of when countries get hit by investment arbitration claims.

Biography of the Speaker

Professor of International Relations and Political Science and Director of Executive Education at the Graduate Institute, Geneva, Cédric Dupont is a Senior Research Fellow of the Berkeley Asia Pacific Economic Cooperation Study Center (BASC) at the University of California at Berkeley. He has been a consultant to various international organisations, multinational companies as well as a range of governments. In addition to courses and seminars for graduate students, he has taught a wide array of programmes to government officials and private sector employees. He is a former Editor of the Swiss Political Science Review and former Associate Editor for Europe of the journal Business and Politics. He has been a visiting Professor at the University of California, Berkeley, Seoul National University and the University of Melbourne. His research focuses on international political economic issues, both at the global and regional levels, on the problem of international cooperation, and international negotiation processes. His current work concentrates on the political economy of international investment arbitration, comparative regionalism, the management of jurisdictional boundaries between international organisations as well as the factors that influence trade negotiations in the European Union.

**Participation is free of charge, no registration is needed.
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NCCR Trade Regulation Brown Bag Seminars are 30-minute presentations, given by external or in-house researchers. The presentations are followed by a 30-minute Q&A session. The Brown Bag concept comes from the US; it means that people bring their own lunch and eat it during the presentation.