

A guide to ISDS THE FACTS

Investor-State Dispute Settlement (ISDS) is the proposed dispute resolution mechanism under the Transatlantic Trade and Investment Partnership (TTIP).

NEUTRALITY

1. ISDS provides a completely neutral forum
2. ISDS has depoliticized investment disputes

ICSID⁷ AND SCC⁸
HAVE ADMINISTERED
65%
OF ISDS CASES

ISDS DOES NOT DEFINE POLICY

ISDS merely concerns the enforcement of investment agreements. ISDS does not limit what policy measures governments may adopt.

SUSTAINABLE DEVELOPMENT

There are an increasing number of ISDS claims from renewable energy investors.⁴ There are 274 known ISDS awards.⁵ 19 stemmed from environmental regulations.⁶



THIS IS ISDS



INTERNATIONAL ARBITRATION

A well-established legal method to resolve cross-border conflicts

TRANSPARENCY

With the new UNCITRAL Transparency Rules³, ISDS will be more transparent than most domestic courts.

SMALL AND MEDIUM ENTERPRISES

OECD Survey found that SMEs represent a significant number of ISDS claimants – extremely large multinationals represent only 8% of the total number of claimants.¹



VARIOUS INDUSTRIES

Types of industries which have brought claims to ISDS vary widely, from food, paper, construction to tourism.

GOVERNMENT WAS
SUCCESSFUL IN 43%
OF CASES²



Now more than
3 000
INVESTMENT
AGREEMENTS

with ISDS provision.



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ISDSBLOG.
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1 OECD – Public Consultation Document 16 May–9 July 2012 (www.oecd.org)
2 UNCTAD – Recent Development in ISDS April 2014 (www.unctad.org/diae)
3 www.uncitral.org
4 See encharter.org and italaw.com

5 UNCTAD – Recent Development in ISDS April 2014 (www.unctad.org/diae)
6 See available ISDS awards on italaw.com
7 International Center for Settlement of Investment Dispute (<https://icsid.worldbank.org>)
8 The Arbitration Institute of the Stockholm Chamber of Commerce (www.sccinstitute.com)