

THE INCLUSION OF ANTI-CORRUPTION CLAUSES IN INTERNATIONAL INVESTMENT AGREEMENTS AND ITS POSSIBLE SYSTEMIC IMPLICATIONS

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ABSTRACT

Empirical studies have demonstrated a recent trend of incorporating anti-corruption provisions into international investment and trade agreements. Some treaties, i.e. the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, include both substantive and procedural obligations such as establishing corruption as criminal offenses, promoting integrity among public officials, and raising public awareness of the threat of corruption. Others like Japan prefer to insert rather general and abstract provisions in its bilateral investment treaties, stating that they agree to take efforts to prevent and combat corruption without indicating specific measures. This article attempts to take a closer look at these anti-corruption provisions by examining their driving forces and main objectives. This article argues that the inclusion of anti-corruption provisions in investment treaties offers practical tools for investment arbitration tribunals in dealing with allegations of corruption frequently raised by the parties, enhances sustainable development of international investment policy, strikes a symmetric balance of interests between investors and host States, and attracts foreign investment flows.

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