

IMPLEMENTATION OF THE JOINT INTERPRETATION MECHANISM UNDER THE ASEAN COMPREHENSIVE INVESTMENT AGREEMENT: OBSTACLES AND PRAGMATIC STEPS FOR THE ASEAN

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ABSTRACT

Broad standards and vague provisions in International Investment Agreements (hereinafter "IIAs") give rise to costly litigation and create openings for tribunals to give unintended or incorrect interpretations to treaty provisions. In order to alleviate the risk above, a number of recent investment agreements have adopted the practice to incorporate the joint interpretation mechanism into the contexts, either through designing a specific organ or granting the contracting states the interpretive authority to issue binding joint interpretation on contentious provisions. The ASEAN Comprehensive Investment Agreements (hereinafter "ACIA"), as the Agreement governing investment relationships in the ASEAN, also provides the ten contracting states the authority to shape their mutual understandings on ambiguous provisions through issuing binding joint interpretations. Pursuant to the ACIA, due to the lack of a specific organ to be responsible for issuing joint interpretations, the article aims to explore the potential obstacles in terms of the implementation of the joint interpretation mechanism in

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the region, subsequently several pragmatic steps for facilitating the ACIA contracting states' usage of the mechanism will be proposed.

KEYWORDS: *ASEAN Comprehensive Investment Agreement, joint interpretation mechanism, subsequent agreement, subsequent practice, treaty interpretation*