

THE RELATIONSHIP BETWEEN THE INTERNATIONAL INVESTMENT ARBITRATION AND SOVEREIGN DEBT RESTRUCTURING

Kai-Wei Chan *

ABSTRACT

The two cases of Abaclat and others v. Argentina Republic and Ambiente Ufficio S.p.A. and others v. Argentine Republic have attracted much attention in the application of international investment arbitration in sovereign debt restructuring. However, the relationship between the international investment law and the sovereign debt restructuring is complex and controversial, since the widespread investment arbitration may hinder the process of sovereign debt restructuring. It may even eradicate its role in the sovereign debt issues under the international investment law framework. To avoid such problems, international investment arbitration under BITs should be applied to sovereign debt restructuring in a more restrictive manner.

KEYWORDS: *sovereign debt restructuring (SDR), international investment arbitration, bilateral investment treaty (BIT), massive claim, sovereign debt crisis.*

* L.M. candidate, College of Law, National Taiwan University. A draft of this paper was presented at the 2013 CAA Arbitration international Conference, Taipei, Taiwan, August 30-31 2013. The author thanks Mr. Benjamin Hughes, Dr. Stephan Wilske and Professor Julien Chaisse for their questions and feedback which have helped refine the contents in this paper. The author can be reached at r99a21095@ntu.edu.tw.