

# Improvements to the system of host country regulatory authority in the Investor-State Dispute Settlement (ISDS) Mechanism

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**Abstract.** As the ISDS mechanism has been widely applied, its shortcomings have been gradually magnified, and the host country's right to regulate has been constantly challenged by foreign investors in international investment dispute settlement, and the sovereignty and public interests of the host country have been undermined as a result. This paper examines the existing problems of the host country's right to regulate, and analyses in depth the motivation for strengthening the host country's right to regulate in the context of the reform of the ISDS mechanism, taking into account past cases and practical experience. At the same time, by comparing and analysing the relevant theories of domestic and foreign scholars on the ISDS mechanism, the paper highlights the necessity of strengthening the host country's right to regulate in order to maintain a balance between the interests of both the host country and the investors, and proposes a feasible and practicable reform plan in this regard.

**Keywords:** ISDS Mechanism; host country regulatory authority; investor; investment arbitration.

## 1. Introduction

The implementation of the ISDS mechanism has long been regarded as an important measure to promote the development of international investment, and the creation of this mechanism has to a large extent resulted in the depoliticised settlement of disputes between investors and host countries. However, with the continuous development of globalization and investment liberalization, host countries have attached greater importance to national sovereignty, which has made the shortcomings of the ISDS mechanism more and more obvious in dispute settlement, leading to a continuous decline in the international community's trust in the ISDS mechanism. The causative factor is that host countries usually enact laws or introduce relevant policies to protect their natural resources, natural environment, public environment, public morality, and other public interests, which will undoubtedly cause damage to the interests of investors. Accordingly, investors will initiate arbitration against the host country according to the relevant international agreements, endangering the rights and interests of the host country. ISDS arbitral tribunals can regulate the behavior of the state, and the outcome of their awards can interfere with the behavior of the state, however, such awards are made by ad hoc arbitral tribunals based on the commercial system. They have wide discretionary powers and tend to protect the interests of investors and make judgments in their favor, neglecting to uphold the regulatory powers of the host state. As a result, this has led to concerns in host countries that their economic sovereignty may be indirectly subject to foreign investors. Maintaining and coordinating the balance in the ISDS mechanism is an important guide to improve the host country's regulatory power in the ISDS mechanism, and this paper intends to explore in-depth the strengthening of the host country's regulatory power from multiple perspectives, which combines the protection of rights and interests and practical feasibility.

## **2. Overview of Host Country Regulatory Powers**

### **2.1. Concept of Host Country Regulatory Authority**

According to the relevant statement on the right to regulate in the World Investment Report 2012: The right to regulate is an expression of State sovereignty. Regulation encompasses both the general legal and administrative framework of the host country and sector- or industry-specific rules. It is also concerned with the effective implementation of rules, including the right to enforcement [1]. It was only after a series of General Assembly resolutions on the New International Economic Order, such as the Resolution on Permanent Sovereignty over Natural Resources in the 1960s and 1970s, that the concept of State sovereignty gradually entered the economic sphere. From the end of the 20th century onwards, influenced by neoliberal policies, the number of bilateral investment treaties (BITs) signed between the countries of the world increased dramatically, and a global system of investment treaties gradually took shape, which is the main source of international obligations limiting the right of the host country to regulate [2]. The limitation of the host country's right to regulate is mainly supported by a specific arbitration mechanism, the host country party concluding an investment treaty grants the investor party the corresponding treatment of foreign investment in accordance with the terms of the agreement, which includes measures such as the enactment of laws and regulations, administrative acts and the procedures of the practice. Since the ISDS regime is essentially an international investment dispute settlement mechanism, discussions on the right to regulate under the ISDS regime usually imply that the contentious issue of the right to regulate in a specific investment dispute to which the ISDS regime applies is sufficiently controversial to affect the outcome of the dispute settlement. There is always a need for the host state to defend the legality and reasonableness of its regulatory behavior in order to be exempted or mitigated from liability in the outcome of the arbitration. Based on this need, the right to regulate is often framed as a response by the host State to the broad interpretation of IIA provisions by arbitral tribunals and the increasing number of investors' claims against traditional capital-exporting countries [3].

### **2.2. The Evolution of the Host Country's Right to Regulate Under the ISDS Mechanism**

At the beginning of the creation of the ISDS mechanism, the United States, in order to promote the expansion of the scale of overseas investment, added the relevant content of the ISDS mechanism in the third-generation BIT led by the United States in order to protect the interests of domestic investors. In the early 1990s, the United States, Canada, and Mexico signed NAFTA, which was the first time that the ISDS mechanism was applied to regional free trade agreements. It became the focus of world attention for a time, but the problem also came up. Mexico, as the only developing country in NAFTA, can not help but worry about the adverse impact of the ISDS mechanism on the Mexican economy and national sovereignty, after the signing of NAFTA, Mexico opened up the domestic investment market by the requirements of the agreement, foreign investment from the U.S. and Canada not only promotes the development of Mexican domestic industries but also promotes the development of Mexico's domestic labor resources and natural resources The ISDS mechanism has improved the economic difficulties faced by Mexico at that time to a certain extent. But at the same time, the ISDS mechanism has also exposed the challenges to the national sovereignty of the host country, where investors can challenge the host country and put pressure on the host country's environmental resources and public health policies a reality that we need to face. As the ISDS regime has been applied more and more frequently in reality, its drawbacks have become more and more apparent, and in the early twenty-first century, amidst the phenomenon of anti-economic globalization, to protest the application of the ISDS framework to their foreign investment disputes, certain Latin American nations choose to withdraw from the treaty or revoke signed bilateral investment agreements. Because of the shifting role of investors, some rich countries have started to concentrate on defending their regulatory rights in addition to the sporadic opposition of developing countries to the ISDS framework. Developed countries represented by the United States and EU countries have explored feasible paths to reform the ISDS mechanism, including the establishment of an appeal

mechanism on a bilateral basis, limiting the jurisdictional scope of the ISDS mechanism, ensuring the consistency of arbitral awards, and enhancing the regulation of arbitration fairness. As can be seen from the foregoing, countries from all over the world have always given the maintenance of the host country's right to regulate top priority while developing the ISDS mechanism, and how to maintain the balance between the host country and the investor under this premise is also an important issue in the field of international investment dispute settlement.

### **2.3. Relevant Domestic and Foreign Theories and Studies on The Issue of the Right to Regulate in the Host Country**

Since the creation of the ISDS mechanism, the international community's attitude towards it has evolved from initial widespread recognition to skepticism, and ultimately to seeking changes and even exploring the establishment of a brand new investor-host country dispute settlement mechanism. Scholars at home and abroad have been paying close attention to this, analyzing the development of the ISDS mechanism from various angles, and striving to optimize the maintenance of the host country's right to regulate.

Domestic research on the host country's right to regulate mainly focuses on how to improve the maintenance of the host country's right to regulate in the future practice of international investment dispute settlement through an in-depth analysis of the existing problems in the ISDS mechanism. Chen An argued the legitimacy crisis in the ISDS mechanism in his *New Development of International Investment Law and New Practice of China's Bilateral Investment Treaties* [4]. This crisis stems from the fact that arbitration institutions settling international investment disputes with public law attributes are not able to get rid of their private law attributes, which leads to consequences such as low transparency of arbitration and inconsistent arbitration results, which undoubtedly adversely affects the exercise of the host country's right to regulate, and thus the trust in investment arbitration in the international community continues to decline. Another scholar, Zhang Qinglin, studied the operation of the ICSID mechanism and the international investment dispute settlement mechanism of NAFTA Chapter 11 in his *Monograph on Issues of International Investment Law* [5]. The relationship between investment arbitration and traditional remedies, the consent of the parties system, the legal application of arbitration, and the transparency of the arbitration process were discussed, and a series of ideas were put forward for the reform of the ISDS mechanism. Meanwhile, the practice of the host country's right to regulate IIAs is discussed in a special chapter in his book *International Investment Law: Practice and Commentary* [6]. From many angles, the international community's various strategies for upholding the host country's right to regulate have been examined, such as the oath of rights clause of the host country's right to regulate, the further confirmation of the host country's right to regulate by the exceptions, and the strengthening of the maintenance of the host country's right to regulate by the procedural links.

Foreign academics have discussed the right to regulate in the host nation from a variety of angles to look at workable, realistic answers. David Gaukrodger stresses the importance of striking a balance between investor's rights and interests and the right to regulate in the host country by comparing several existing IITs and analyzing the changes and growth trends of the content of the right to regulate in the host country in each treaty [7]. While in the paper David Gaukrodger acknowledges the clear influence of ICSID in maintaining the balance between the two parties, practice has shown that it is undoubtedly more efficient to think about and resolve issues in terms of substantive rules of the parties. In another article, fair and equitable treatment clauses have long been the main basis for responsibility in most investment treaty arbitration disputes, according to David Gaukrodger, who cuts through this lens, have been the most frequently invoked clauses in investor-host state dispute settlement, with many investors winning their cases and receiving large amounts of compensation from the host state. The fair and equitable treatment clause has for some time been the most invoked clause in investor-host state dispute settlement as the main ground of liability in most investment treaty arbitration claims, with many investors winning their cases and receiving substantial compensation from the host state [8]. By analyzing the various measures taken by the host

government to resolve the issue between the investor and the host state's right to regulate, to prevent arbitral tribunals from arbitrarily interpreting the provision in a way that would increase the risk of the host state losing the case and thus affect the preservation of the host state's right to regulate, David Gaukrodger proposes that fair and equitable treatment should be limited to the minimum standard of treatment under customary international law. Gildeggen and Rainer are two scholars who help to explain the debate that exists in the international community about TTIP by examining the specific question of how TTIP regulates foreign property and conducts investment protection [9]. They argue that states may take expropriations or other acts of interference with foreign property for reasons such as protection of the public interest and preservation of cultural diversity, subject to the payment of commensurate compensation.

In conclusion, it can be seen that although scholars at home and abroad have explored the issue of the host country's right to regulate under the ISDS mechanism to a certain extent, it is not comprehensive and has not analyzed the principles in depth. Therefore, we must propose practical and feasible solutions to strengthen the host country's right to regulate from different perspectives.

### **3. Motivation for Strengthening the Host Country's Right to Regulate**

#### **3.1. Physical Deficiencies in the Exercise of the Host State's Right to Regulate Would be Highlighted in the ISDS Regime**

Due to the special nature of the construction of the ISDS mechanism, which requires the state to cede part of its sovereignty, which directly leads to the effectiveness of the right to regulate can only be played in a limited way, so the performance of the host country's right to regulate in the ISDS mechanism is inherently weakened, which undoubtedly magnifies the physical defects of the host country's right to regulate. The ISDS mechanism, however, from the very beginning of its creation, has shown negligence towards the exercise of the host country's right to regulate, because the ISDS mechanism is a dispute resolution path specifically for foreign investors, and it is only applicable to safeguarding the rights and interests of foreign investors when the host country violates the investment agreement. Moreover, this mechanism does not apply to domestic investors, whereas foreign investors can use it with virtually no restrictions. Such a mechanism, with its obvious traditional asymmetry, is by its very nature not a fair and equitable means of dispute resolution and does not give sufficient weight to the right of the host State to regulate in favor of its regulatory sovereignty in investment matters, as well as its public interest and the rights and interests of its nationals.

Over the past two decades, through the growing number of IIAs, the ISDS mechanism has significantly increased its influence in the areas of international trade and global investment and has evolved to become the primary means of adjudicating international investment disputes today [10]. However, under the ISDS regime, the host country's regulatory authority is frequently hindered from exercising, which makes the host country realize that the ISDS regime poses a threat to its regulatory power and actively fights for its regulatory rights and interests. At the same time, however, those with vested interests in the ISDS regime will also pay close attention to the changes in it, and oppose the direct or indirect enhancement of the regulatory power, so as to preserve their existing interests and the expected benefits that can be gained if the content of the regulatory power is maintained at the status quo. As a result, the issue of host country regulation under the ISDS regime has been under pressure from both supporters and opponents and has lacked room for development, with a series of optimization measures having little effect. Whereas international investment has seen a massive increase in investment agreements under the guarantee and encouragement of the ISDS mechanism, there has been a concomitant increase in the number of cases of disputes between investors and host countries, with the number of investor claims against the state exceeding 1,100 as of 2020 [10]. This will inevitably lead to the accumulation of a large number of real-life problems that host countries need to face, which will to some extent stall the implementation of investment agreements and adversely affect economic and social development.

### **3.2. Procedural Design of the ISDS Mechanism Undermines the Effectiveness of the Host State's Regulatory Powers**

By internationalizing investment disputes, the ISDS mechanism has succeeded in creating a platform for foreign investors to resolve international investment disputes, which is indeed relevant and effective in safeguarding investor rights. However, for a large proportion of sovereign states, this is not an idealized approach. This is because, since the creation and application of the ISDS mechanism, its ultimate purpose has been to provide easy and effective remedies for the weaker investor party in an investment agreement, and the host country's right to regulate has been undermined to a certain extent, directly or indirectly, by the imperfections in the initial procedural design of the ISDS mechanism.

First, the ISDS mechanism will pose a challenge to the rule of law in the host country, and the basic idea of the ISDS mechanism to resolve international investment disputes is to provide foreign investors with remedies for their investment rights and interests, which are realized through the exercise of the private right of action and therefore can be filed independently of the investor's home country, thus reducing the unnecessary intervention of the state power in the process of settling international investment disputes, and realizing impact-minimizing settlement of disputes while depoliticising the system. This means that an investor can unilaterally seek redress through the ISS. This means that an investor can unilaterally bring an arbitration against a host state through the ISDS mechanism, thereby circumventing the host state's universally binding laws and courts that enforce judicial procedures, whereas, in customary international law, a private party must exhaust locally available remedies before filing a complaint to bring an international claim against a state. At this point, legal procedures regarding State institutions are enforced and give the State a chance to resolve issues and disputes before referring them to an international court. In the ISDS mechanism, the investor can either cross over to the domestic courts of the host state and directly file an investment arbitration against the host state, or first file a lawsuit in the domestic courts of the host state, and then seek compensation from the host state through the ISDS mechanism if it loses in the domestic courts, or file a dispute resolution procedure with both institutions at the same time, that it unquestionably goes against the intention of the host state's legal system. On the other hand, international investment treaties usually involve two or more sovereignty issues, starting with the fact that the host country's contracting behaviour is itself a manifestation of its national sovereignty, and each contracting party agrees to limit the exercise of its sovereign regulatory powers. And since it is private companies that make overseas investments, they must also be licensed under their national laws. Thus, the ISDS mechanism involves the sovereignty of two jurisdictions, which may challenge the host country's judicial procedures and create serious conflict-of-laws issues. UNCTAD has directly pointed out this disadvantage: it does not contribute to a good domestic legal system [11]. In addition, an investor may even address situations such as the host state's refusal to enforce an arbitral award by repeatedly filing a request for arbitration against the host state with the arbitral tribunal through the ISDS mechanism to circumvent the host state's local judicial remedies. In *White Industries*, the Indian court's refusal to enforce an unfavorable award resulted in the claimant's re-initiation of international arbitration and its loss, an experience that has been replicated by other investors [12]. In this way, the host State will face a cycle of litigation that threatens its public interest and policy implementation. Such a scenario, if successfully practiced, would be widely replicated, greatly affecting the efficiency of dispute resolution and placing the host State under a heavy burden of arbitration.

Secondly, the ISDS regime can have a significant impact on the public interest policies of the host state, not the least of which is that due to the shortcomings of the ISDS regime in terms of transparency and fairness, the host state is forced to consider whether it is contrary to the terms and principles of the ISDS regime when formulating policies related to the public interest in question. The case of *Renco v. Peru* demonstrates that on the one hand, the large number of investment arbitration cases will inevitably make the host government reduce the formulation of relevant regulatory policies to lessen the chance of being sued and losing the case, which to a certain extent

reduces the space for government regulation [13]. On the other hand, TNCs are increasingly trying to use investor-state dispute settlement mechanisms to avoid legal sanctions [14]. In practice some of the companies that endanger the public interest companies will continue to use the ISDS mechanism as a way to undermine much-needed regulatory policies in the host country, and foreign investors will often include their high potential loss of benefits along with their arbitration claims, so that the total damages will be much higher than the actual damages [15]. This is ostensibly within the scope of the safeguards provided by the ISDS mechanism for the rights and interests of investors, but in practice, most host countries often find it difficult to bear this cost, and the actual effectiveness of the host country's right to regulate will be greatly reduced.

### **3.3. Factors of Social Development and Progress of the Times That Contribute to the Improvement of the Right to Regulate in the Host Country**

The right to regulate has been identified as one of the key criteria for promoting people-centred sustainable development goals [16]. Most of the existing investment agreements under the ISDS regime do not adequately cover elements relating to the right of the host state to regulate, resulting in a lack of a strong substantive basis for the host state in international investment arbitration, which makes it simpler for investors to contest the host state's national sovereignty. With the host country's reflection on the development mode of the ISDS mechanism and the improvement of the host country's governance capacity, the return of the host country's subjective status adds national driving force to the reform of the ISDS mechanism, and the popularisation of the concept of sustainable development makes the ISDS mechanism speed up the reform to respond to the host country's questioning and rebuild its international credibility, after overcoming the obstacles, the ISDS mechanism should still be sustainable in the longer term and better able to highlight the need to promote the improvement of the host country's right to regulate.

## **4. Programmes to Improve the Host Country's Regulatory Authority System**

### **4.1. Reasonable Limitation and Narrowing of the Scope of Application of the ISDS Mechanism**

Since the investor unilaterally holds the initiative to initiate arbitration in the host country through the ISDS mechanism, the investor frequently can disregard the detrimental effects of this conduct on the host country's regulatory authority and even abuse the ISDS mechanism to further its interests. Therefore, setting a certain threshold for the use of the ISDS mechanism is the first step in bolstering the host country's right to govern the system, to limit the scope of its application and exclude the possibility of using the ISDS mechanism to seek undue benefits.

Investors are required to seek and exhaust domestic legal remedies in the host country before initiating ISDS arbitration before an arbitral tribunal. This is based on respect for state sovereignty and allows sovereign states to resolve disputes fairly through their institutions. As a fundamental international custom, the principle of exhaustion of local remedies is binding on all States, but is not like an absolute legal norm and does not have a direct effect on States, and therefore States may apply it by treaty or, in the absence of a treaty, on a case-by-case basis, and the application of the custom cannot be ignored on the ground that the investment agreement does not mention it [17]. Given that the conduct of the investment takes place in the territory of the host State, based on the principle of territoriality in the principle of State sovereignty, the host State should have jurisdiction over investment disputes occurring in its territory and has the right to require the parties to the dispute to seek settlement through local remedies.

Then there is the rationalization of the usage of fork-in-the-road clauses, one of the provisions used to restrict jurisdiction in international investment agreements, which compel foreign investors to utilize one of several alternative dispute resolution procedures and forbid repurposing litigation of the same dispute [18]. This means that domestic remedies and ISDS arbitration in the host country cannot be applied at the same time, which prevents investors from seeking remedies from the host

country's domestic judiciary when they are dissatisfied with the outcome of the arbitration, reduces the burden of the host country, and indirectly strengthens the host country's right to regulate.

Finally, the establishment of an alternative dispute settlement mechanism to the ISDS mechanism, the United Nations UNCITRAL in the fifty-third session has issued a special document pointing out that: "the future of the work carried out in the field of disputes lies in the international arbitration of the parallel procedure [19]." According to the 2020 ICSID Caseload Statistical Analysis Report, as of the end of 2019, approximately 31% of all ICSID accepted cases ended in settlement [20]. This implies that there is potential for negotiation between the investor and the host State and that there may be a way to resolve disputes without resorting to arbitration. If the consultation procedure is used reasonably and there are sound consultation provisions, it is possible to resolve differences peacefully and solve problems amicably, thus saving human and material resources to the greatest extent possible. Therefore, the consultation procedure can be listed as a necessary method before the investor initiates arbitration. Besides, we can also consider incorporating mediation into the ISDS mechanism and setting up corresponding procedural rules, but different from consultation, mediation must be carried out under the premise of mutual consent of both parties, and the outcome of mediation must be accepted by both parties voluntarily.

#### **4.2. Addition of Mechanisms for Legal Interpretation and Procedural Oversight**

The performance of arbitral tribunals is one of the key reasons for the withdrawal of States from international arbitration mechanisms [21]. Arbitral tribunals in the ISDS mechanism often interpret treaties in the course of arbitration beyond the consent of the sovereign state, violating the state sovereignty of the host state in the form of regulatory power as its main manifestation. The legitimacy crisis triggered by the ISDS mechanism is most prominently manifested in the investment dispute settlement process in the arbitrariness and inconsistency of the tribunal's interpretation of the treaty, which results in the impossibility of both the investor and the host state to The most prominent manifestation of the legitimacy crisis arising from the SSSDS mechanism is the arbitrariness and inconsistency of the tribunal's interpretation of the treaty. Thus, we need to introduce a joint interpretation mechanism by the contracting parties, which grants the parties to an investment agreement the right to jointly interpret issues arising from the application of the agreement, and the parties may, through cooperation or consultation, interpret the agreement in a specific manner. Apart from the fact that the interpretation is usually legally binding, no authoritative interpretation of an IIA can be made if only one of the parties is involved [22].

In addition, the lack of impartiality of arbitrators has been a prominent issue in the ISDS mechanism, and deficiencies in the control mechanism over arbitrators have led to frequent inconsistencies in award results. To promote the realization of procedural justice, we must increase its transparency, including disclosing the relevant arbitration information of the ISDS mechanism as well as allowing third-party participation in the arbitration covering individuals, NGOs, and other subjects with an interest in the dispute. In recent years, with the rapid development of information technology and the increased mobility of information, countries around the world have entered the age of information technology, and all subjects are fully equipped to enhance transparency, and The reform of the ISDS mechanism has also significant progress in terms of transparency and public participation. The main reason for allowing third parties to participate in the proceedings is that most of the arbitration results are closely related to the public interest, to safeguard the public's right to know and monitor the behavior of the arbitrators, to prevent any bias. Furthermore, it is to balance the rights and interests of both parties in the dispute resolution process and to provide timely feedback and action.

#### **4.3. Broadening of Remedies for Awards Made in Arbitration Relating to the Regulatory Powers of the Host State**

For instance, take the ICSID case, unlike the procedures under the World Trade Organisation's Dispute Settlement Mechanism, ICSID does not provide for an appeal procedure for parties to a

dispute if they do not accept the award of the arbitral tribunal, and the awards made by its arbitral tribunals are final. If a host country is indeed dissatisfied with an award relating to regulatory rights, the only available remedy is to request that the award be set aside in its entirety. However, such an act of setting aside can only be initiated when necessary to preserve the essential integrity of the arbitral process. Although the Washington Convention has established a corresponding setting aside mechanism to provide a remedy, unfortunately, the setting aside mechanism is very limited in its effect, and even if the arbitral award is set aside, the dispute can still be submitted to a new arbitral tribunal [23].

As an error correction procedure in investment arbitration, the establishment of an appeal mechanism can, on the one hand, ensure the consistency of arbitral awards to a certain extent, and, on the other hand, prevent the emergence of erroneous awards and reduce the damage that erroneous awards bring to the national interests of the host country. However, the construction of this appeal mechanism needs to leave room for relief for the host country, but also to maintain the relative stability of the arbitration mechanism. Therefore, the appeal mechanism should have both the functions of maintaining the consistency of arbitral awards and correcting the wrong arbitral awards, and this must clarify the procedures and the specific circumstances applicable to the appeal of an appellate arbitral tribunal's appellate decision upholding an arbitral award, making substantive changes, or making a new award [24]. In the case of bilateral investment treaties or free trade agreements, the development of an appeal process must be done at the outset, but countries around the world have varying levels of economic development, different degrees of development of investment liberalization, and different degrees of perfection of domestic legal systems [25]. Therefore, in establishing an appeal mechanism that accommodates the participation of more countries on a multilateral basis, we also need to prevent the occurrence of fragmentation of the appeal mechanism. At present, the International Investment Tribunal (IIT) advocated by the EU has the most comprehensive setup for the error correction mechanism, including a series of review contents such as fact-finding and law application and interpretation, which is more referential.

All in all, the substantive value of establishing an appeal mechanism is to put the power of selecting judges in the first instance and appeal in the hands of the contracting parties, to enhance the participation of the host country in the ISDS procedure by strengthening the relevant power of discourse, and to promote the rights and interests of the host country and the investor to move towards a balanced direction.

## 5. Summary

The development of international investment liberalisation needs to be complemented by an appropriate international investment dispute settlement mechanism, and as a result, the increase of international investment must necessarily lead to the reform of the ISDS process. Protecting the host country's right to regulate should be the main concern while changing the ISDS mechanism, whether in terms of substantive rules or procedural norms. Particular attention should be paid to the core content of the ISDS mechanism for the protection of investors' rights and interests, and at the same time, the balance between the rights and interests of investors and the host country should be maintained, and investors' interests should not be placed in an unfavourable position that can be sacrificed at any time for the sake of national sovereignty in order to emphasize the maintenance of the sovereignty of the host country. As an important participant in international investment activities, the sovereignty of the host country as well as the right of the host country to regulate need to be better safeguarded in order to guarantee the normal development of international investment liberalisation.

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