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INVESTMENT POLICY TRENDS

Аннотация: в статье говорится, что инвестиционная политика становится более сложной, разнородной и неопределенной. Императивы устойчивого развития ставят новые задачи в инвестиционную политику и делают их более многогранными, а их подходы становятся более диверсифицированными. Авторы отмечают, что это делает инвестиционную политику менее предсказуемой в глазах инвесторов.

Ключевые слова: инвестиционная политика, ограничения или нормы регулирования в инвестиционной сфере, руководящие принципы глобальной инвестиционной политики, модернизация существующих контрактов старых поколений.

Abstract: the article points out that investment policy becomes more complex, heterogeneous and uncertain. The imperatives of sustainable development pose new challenges to investment policies and make them more multifaceted, and their approaches become more diversified. The authors say that this makes investment policy less predictable in the eyes of investors.

Keywords: investment policy, restrictions or norms of regulation in the investment sphere, guiding principles of the Global Investment policy, modernization of existing contracts of old generations.

At the international level, there is a process of reform of the IIA regime, which leads not only to the modernization of treaties but also to the withdrawal of some

countries from that regime. The Megaregionalnye agreement is becoming more and more difficult to conclude and apply in practice. These changes can be temporary manifestations of turbulence in a rapidly changing world in which states are trying to find new benchmarks and a harbinger of long-term political shifts. A clear investment regime can help to reduce uncertainty in investment relations and provide them with greater stability.

Countries are still striving to attract investment, and the use of regulations and stringent measures is expanding. In many industries, there were liberalization conditions of access of foreign investors. Primarily in the field of financial services, in the extractive industries and the real estate market. Many countries have simplified the registration process, provided new investment benefits or reformed national systems for the settlement of investment disputes. Other noteworthy developments include the continuation of the privatization process and the establishment of new public-private partnership regimes in some countries. The introduction of new restrictions or regulations in the investment sphere is largely a consequence of fears about the transition to foreign owners of strategic industries, as well as the need to protect the national the safety and competitiveness of local producers. These restrictions can be found not only in the new legislation, but also in the administrative decisions of the countries receiving the investment. Companies also face political pressures that affect the reconstruction of investment decisions and measures aimed at their preservation in the country, limiting the restructuring of investment opportunities abroad. In addition, the increase in the number of major Trade Points issued by the World Trade Organization could affect foreign investors, especially those working in global supply chains. All this somewhat darkens the picture above, which is generally favorable for foreign investment political climate.

The G20 countries have adopted guidelines for global investment Policy, for the first time demonstrating the existence of a multilateral consensus on investment issues in the group of developed, developing countries and countries with economies in transition; constitute More than two thirds of the world's FDI exports (including the EU).

These principles contain key elements of investment policy and have the following distinctive features:

1. Focus on sustainable development and inclusive growth, recognition of the right to regulate in order to achieve public policy objectives and support for responsible business practices.

2. The guiding principles reflect the collective position of the G20 countries on the four cornerstones of investment policy and treaty practice: justification; protection and regulation; promotion and simplification; and dispute settlement.

3. One of the main reasons for the adoption of the Guiding Principles is the desire to achieve greater coherence between national and international policies, as well as between investment policies, other political areas and sustainable development Purposes.

4. The guiding principles establish a delicate balance between the rights and obligations of companies and States, between liberalization and regulation, and between the strategic interests of host countries and their countries of origin.

5. The guiding principles are not binding. They should guide the assessment and development of national investment policies and strategies. They should also be an important reference point in the preparation and conduct of negotiations on international investment treaties.

Now let us move on to the second phase of IIAs reform: modernizing existing old-generation treaties. Contracts of the old type remained very significant.

1. A joint interpretation of the provisions of the Treaty may lead to a controversial interpretation in the ISDS process.

2. Joint interpretation can help to reduce uncertainty and increase predictability for investors. By amending the provisions of treaties, parties could achieve change that is more global and ensure that the amended treaty reflected their political preferences.

3. Replacing «Legacy «contracts allows you to completely rework those.

4. References to global standards: in the process of reforming IIAs, countries can refer to international standards and instruments.

5. Multilateral efforts: the joint efforts of the international community to reform IIAs can yield the greatest results.

6. The way out of the old existing treaties: the way out of the «surviving» IIA treaties is an easy way to free the parties from their obligations. At the same time, this step can reduce the attractiveness of countries in the eyes of investors and weaken the protection of their own investments abroad.

7. Withdrawal from Multilateral treaties: while unilateral withdrawal from multilateral investment treaties may contribute to the protection of countries to some extent from investor claims, it may also affect their assessment of the attractiveness of these countries for Investment and the weakening of protection of national investments abroad. Such a move could also create challenges for future multilateral cooperation in the area of investment.

In order to choose from these seven policy options, a country that meets individual conditions needs a careful cost-benefit analysis.

Strategic objectives include the need to avoid «busting» reforms so that the existence of the IIA regime does not lose the sense of protecting and promoting investment. The aim of the reforms, especially the integrated one, should be to take advantage of respect for the rule of law and to meet the expectations of investors in need of predictability, stability and transparent policies. System tasks are associated with existing spaces, overlays, and fragmentation, which eliminates the consistency and consistency of a mode that consists of thousands of different content and form agreements. Reforms should aim at improving the coherence of the IIA regime, strengthening and simplifying the IIA network, and regulating the relationship between IIAs and other branches of international law.

The objectives of coordination require a prioritization of reforms and a clear sequencing of their implementation, together with treaty partners, and coherence in the reform efforts at various levels. Without addressing capacity-building problems, small countries, especially the least developed ones, are unlikely to be able to address the shortcomings of old-style IIAs. More active multilateral support could contribute to a comprehensive reform of the regime. UNCTAD's efforts in the three pillars of its work,

which had consisted of consensus-building, research and policy analysis, and technical assistance, could play a crucial role in that regard.

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