

Viet Nam’s written comments on Draft toolkit on prevention and mitigation of international investment disputes

Viet Nam takes this opportunity to commend the ongoing investor-State dispute settlement (ISDS) reform process at Working Group III and its sincere gratitude towards the Secretariat for their work. In consideration of the Working Paper numbered A/CN.9/1185, Viet Nam raises below its comments:

First, regarding the investor grievance mechanism in Viet Nam mentioned in paragraph 32 of the Draft toolkit,¹ Viet Nam proposes removing this content from the Draft toolkit. The Working Group mentioned here was part of the inactive pilot project for the Systemic Investment Response Mechanism (SIRM).

The resolution of investment disputes is specifically regulated in Article 14 of the 2020 Investment Law. The mechanism for addressing investor obstacles and preventing disputes between the State and investors is outlined in Article 9 of Decree No. 31/2021/ND-CP, dated 26 March 2021, providing details and guidance for the implementation of several provisions of the Investment Law.

Second, Viet Nam proposes removing the reference to the Article of Mr. Tran Viet Dung² from the Draft toolkit. The article was written before the enactment of the relevant laws that are currently in effect. Therefore, it serves only as a reference to the legal framework and the application of the law at the time of its publication.

Additionally, the article reflects the author’s personal views and is not an official document issued by any government agency. Consequently, it may not accurately represent the actual situation.

¹ “In Viet Nam, grievances are resolved at a technical level through discussions between a pilot task force team (led by the Director General of the Foreign Investment Agency) and relevant agencies. If the grievance cannot be resolved, then the task force team reaches out to the Office of Government (Prime Minister’s Office) for a political decision.”

² “Tran Viet Dung, *Vietnam’s Experiences with International Investment Agreements Governance: Issues and Solutions in Asian Yearbook of International Law, Volume 25 (2019)*, available at https://doi.org/10.1163/9789004501249_005.”