



UiO • **PluriCourts** – The Legitimacy of the International Judiciary
University of Oslo

How to measure the effectiveness of investment tribunals

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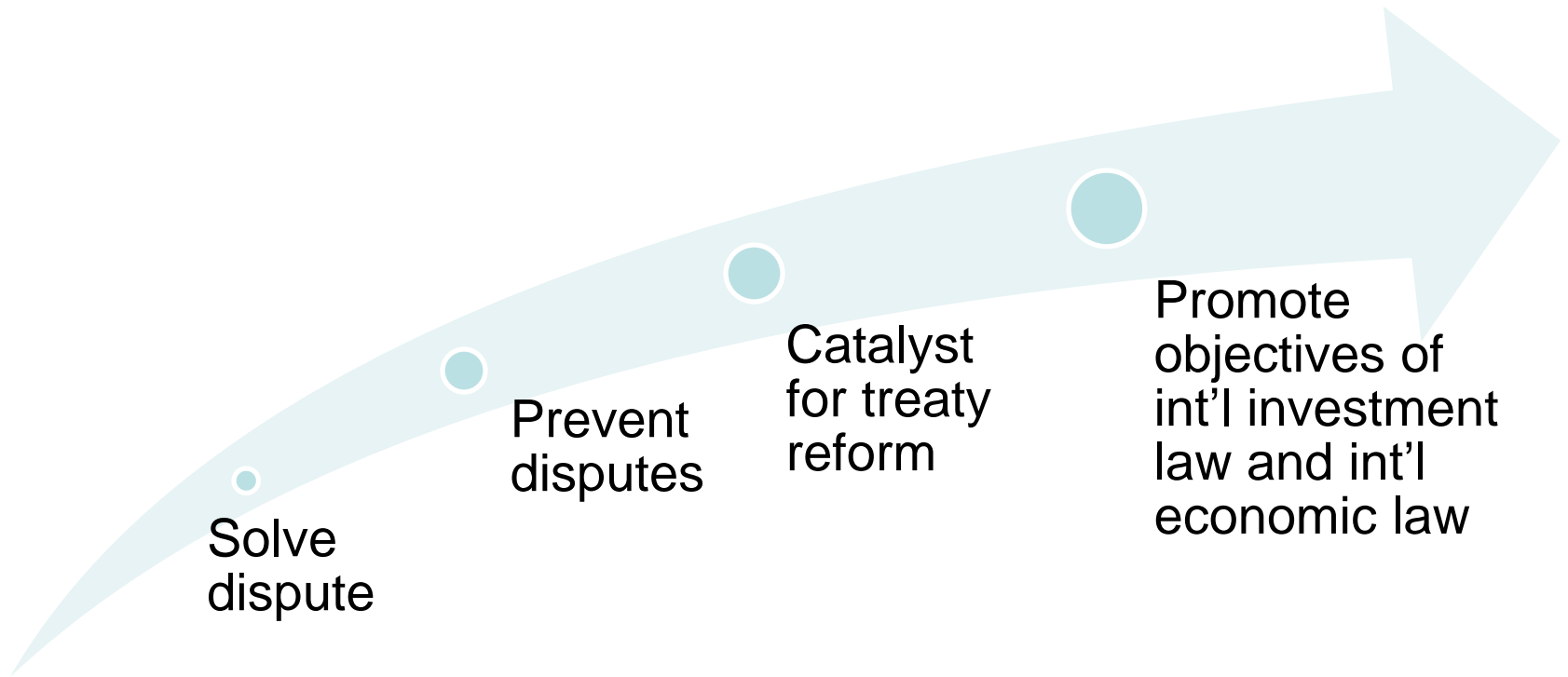


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COURTS

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Effectiveness – for what purpose?



An empirically based approach – how far can we get?

- About 3200 international investment agreements
 - Number of unknown? Uncertainty regarding legal status
 - Number of inaccessible? Language, not public
- Effects of ISDS as a «negotiation tool»
 - Is it possible to get beyond the anecdotal stage?
- About 600 known cases
 - Number of unknown cases? Add 10-20%?
 - Do we see increased transparency?
- Compliance and enforcement
 - Challenge of tracing the fate of cases – beyond the anecdotal?
- Alternatives to databases: interviews and experiments

Effectiveness in solving disputes

- Are we only studying the tip of the iceberg? What can it tell us about what is hidden – negotiation tool
 - Who are «users»?
 - In which sectors?
 - Likelihood of success
 - Costs of cases
- How does ISDS develop relative to alternative dispute settlement mechanisms?
 - Domestic courts
 - Consultation, mediation, good offices, diplomatic protection, fact-finding commissions
 - Commercial arbitration

Other effectiveness issues

- Preventing future disputes – increase predictability for investor and host state
- Catalyst for reform of IIAs – the new model agreements
- Contributing to broader goals of
 - International investment law
 - International economic law