

# Responses to the “legitimacy crisis” of international investment law (LEGINVEST)

## 1. Relevance and purpose

Investment Treaty Arbitration (ITA) is one of the fastest-growing and most controversial forms of dispute settlement in international law. A great majority of countries have signed International Investment Agreements (IIAs) that provide rights to foreign investors and most of these agreements allow investors to bypass domestic courts by bringing cases concerning infringement of their rights to international arbitral tribunals. ITA has now become the most frequently used means of dispute resolution at the global level, bypassing well-established institutions such as the International Court of Justice and the World Trade Organization (WTO) Dispute Settlement Mechanism in terms of number of cases.

Countries, stakeholder groups and academics have voiced concerns regarding the political, legal, economic, social and environmental effects of IIAs and ITA as a consequence of the rights allocated to foreign investors under the treaties and as a result of arbitrations. Until recently, such concerns essentially focused on effects in developing countries. However, as foreign investors increasingly initiate cases against developed countries, concerns have become more widespread and have caused heated debates during recent negotiations of major international trade and investment agreements, such as the TPP, TTIP and CETA.<sup>1</sup> Many have referred to these developments as a “legitimacy crisis” of international investment law (Franck 2005, **Behn 2014**). Upon closer examination we see that there is great variation in how countries and ITA tribunals have responded to this crisis.

This project seeks to explain the variation in responses of countries and ITA tribunals to the legitimacy crisis. In particular it will focus in on the dynamics between countries’ responses and the practice of ITA tribunals. Our findings in this regard will assist countries and tribunals in taking measures to improve the institutions and tribunals in international investment law with the goal of advancing their legitimacy.

The legitimacy crisis of international investment law seems to be linked to an increasing scepticism towards international courts and tribunals more generally, including the European Court of Human Rights (**Madsen 2016**) and the WTO Dispute Settlement Mechanism (Creamer and Godzimirska 2016). We believe that the project’s methodological framework and findings will benefit efforts to deal with legitimacy issues in other fields of international law with strong dispute settlement mechanisms.

International investment law is a particularly timely field of study due to the significant reforms being proposed and in some instances implemented (Echandi and Sauvé 2013). Such reforms include revisions of treaties, reforms of ITA and the publication of model treaties, as well as initiatives to establish domestic institutions and rules to handle complaints by foreign investors.

Norway has not entered into treaties with investment protection clauses that can be invoked before ITA since it signed the Free Trade Agreement with Singapore in 2002. The concern within Norway has been with regard to the constitutionality of ITA (das Neves 2016) and the investment protections included in the IIAs (**Fauchald and Thorud 2006**). Norway published its first draft model IIA in 2007, but it was never adopted by the government. A new draft was published in 2015. It received comments from 875 persons, institutions and NGOs. The government has not made any further decision on the matter, which testifies to the controversies associated with international investment law in recent years.

## 2. Background and status of knowledge

It is often taken for granted that there is a close relationship between the activities of international courts and tribunals and the legitimacy of their associated treaty regimes. Courts and tribunals contribute to compliance and enforcement of rights and obligations – which constitute an essential element of developing ‘rule of law’ at the international level (Alvarez 2017). While doing so, they promote ‘judicialization’ – which may be perceived as undermining political processes (Stone Sweet and Grisel 2017). Moreover, they address specific

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<sup>1</sup> Trans-Pacific Partnership, Trans-Atlantic Trade and Investment Partnership and Canada – EU Comprehensive Economic and Trade Agreement, respectively.

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and controversial issues – which may capture and focus public attention and substitute negotiation or alternative dispute resolution (**Fauchald 2015**).

There is no question that such functions are important for the normative and sociological legitimacy of treaty regimes. While there is a very significant body of literature on the relationship between international courts and tribunals and their treaty regimes in terms of normative legitimacy, relatively few contributions seek to explore the relationship based on empirical studies or address issues of sociological legitimacy. In the field of international investment law, we find empirically based studies discussing the content of treaties, effects of the treaties and ITA for developing countries, the roles and inclinations of arbitrators, inconsistencies in the reasoning and conclusions of tribunals, the effects of IIAs and ITA for policy space (e.g. Franck 2005, Waibel et al. 2010, **Behn 2014**, **Langford and Behn 2017**, Broude et al. 2017).

The project will focus on three specific issue areas that are particularly salient in the debate concerning the legitimacy of IIAs and ITA:

- 1) Environment – which has been at the top of the debate agenda of policy makers and academics for about three decades (**Behn and Fauchald 2017**),
- 2) Human rights – which has gained increased importance in recent years and raise complex questions since IIAs and ITA protect rights of investors while raising issues regarding the rights of those adversely affected by foreign investment projects (Simma 2011), and
- 3) Development – which has constituted a main concern due to claims that IIAs unfairly favours investors from rich countries at the cost of poor countries (Guzman 1997), but which in recent years has become an increasingly important argument for maintaining and promoting IIAs and ITA (**Behn et al. 2017**).

These issue areas have been selected because they are considered as key to the future legitimacy of the international investment regime. Moreover, they illustrate differences in terms of the evolution of the legitimacy discourse. Environment and development have been key points of criticism since at least the 1980s, while concerns regarding human rights are much more recent.

Environmental clauses have been included in some IIAs since the 1990s (**Fauchald 2007**), but such clauses still remain absent in most IIAs (e.g. Keene 2017, Mayeda 2017). Evidence regarding the effects of ITA on environmental policy indicates that while ITA tribunals are increasingly sensitive to environmental concerns and there are examples of cases where IIAs have been invoked to protect the environment, significant concerns remain, in particular regarding devolution of environmental decision-making (**Behn and Fauchald 2017**).

In the field of human rights, a few IIAs have included preambular human rights-related language and only in exceptional cases taken up human rights in substantive provision – mostly focusing on labour-related rights (Peterson and Gray 2003). The topic has been more prominent in the context of ITA where the main focus has been on tribunals' ability to take into account the human rights of individuals affected by investment projects (e.g. Radi 2012, Shore and Tan 2015). Recently, increasing attention has been paid to the treatment of investors in the context of ITA (**Langford et al. 2017**).

There has been a long-standing debate on whether IIAs are successful in promoting investment in developing countries and whether ITA is biased against developing countries. On the first issue, evidence is mixed but there seems to be some evidence that IIAs have served to promote investment between certain economies and within some sectors (e.g. Haftel 2010, **Berger et al. 2013**, Echandi 2016, Colen et al. 2016). With regard to ITA, evidence indicates that there is some bias that is due to increased deference by ITA tribunals to policy measures adopted by developed countries than a bias against developing countries (**Behn et al. 2017**).

There is no lack of literature proposing reforms to IIAs and ITA, including covering all the three areas that we propose to research. However, there has been limited research on what triggers reform of IIA and causes ITA to change. There is an emerging literature on what triggers withdrawal from and renegotiation of IIAs (e.g. Lavopa et al 2013, Simmons 2014, Broude et al. 2016, Minhas 2016, Peinhardt and Wellhausen 2016, Haftel and Thompson 2017) and reform of ITA (e.g. Allee and Elsig 2016, Trakman and Musayelyan 2016).

We have identified two topics that have received little attention in the literature so far, and that in our opinion are essential to understanding the current legitimacy issues regarding international investment law and how this field of law can evolve in light of current legitimacy concerns.

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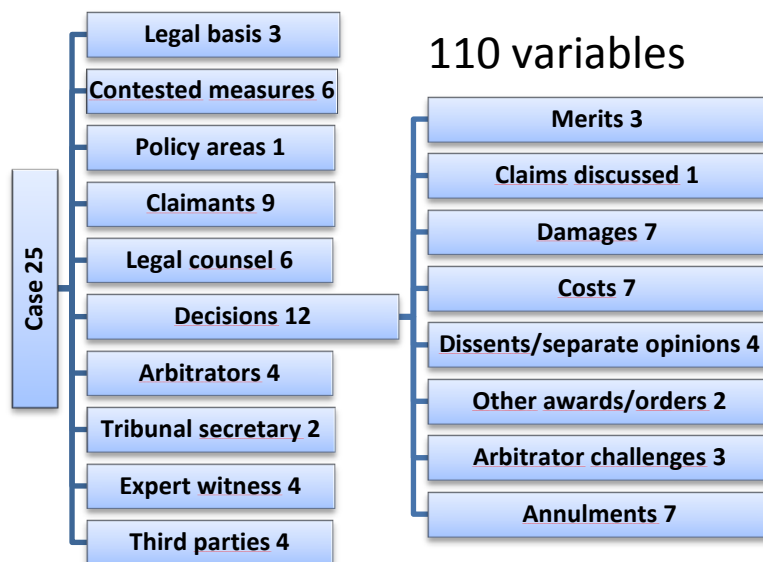
The first is the causal relationship between ITA and reform of IIAs. What has been the role of ITA in providing incentives to change the design of IIA, and how important has ITA been when compared to other factors? Literature examining this question is so far limited and exploratory and based on limited empirical evidence (Poulsen and Aisbett 2013, Pauwelyn 2014, Allee and Peinhardt 2014, Manger and Peinhardt 2017).

The second concerns the impact of new provisions of IIAs on ITA. Have new designs of IIAs had impact on ITA directly (i.e. under the IIA in question) or indirectly (i.e. used as an interpretive argument under other IIAs)? There are few empirically based contributions on this issue beyond those that focus on environmental issues (Behn and Langford 2017).

### 3. Approaches, hypotheses and choice of method

Exploring the causal relationships between developments in ITA decisions and IIA design requires significant amounts of data regarding these developments. As part of our project at PluriCourts – Centre for the Study of the Legitimate Roles of the Judiciary in the Global Order that explores the legitimacy of ITA, we have collected data regarding approximately 850 ITA cases. Each case has been coded for up to 110 variables, making it the world's most extensive dataset on ITA (figure 1).

Figure 1: PluriCourts Investment Treaty Arbitration Database (PITAD) – structure and variables



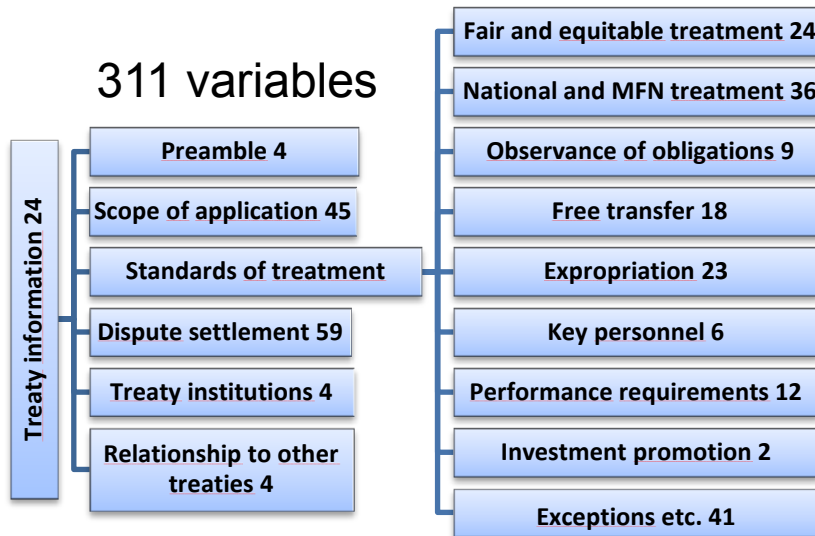
Many of these variables are relevant in terms of identifying developments of and impacts from ITA. These include the nature of the contested measure, the economic sectors concerned, claims of the investors, defences of the host states, and the results of the proceedings.

Besides the database on ITA, the project will require data regarding IIAs. States have signed a total of 3328 bilateral and multilateral IIAs globally. The complex regulatory situation in this field of international law generates the need for robust data that can identify patterns of diffusion of treaties and obligations across space and time.

We cooperate with researchers at the German Development Institute/Deutsches Institut für Entwicklungspolitik (DIE) in Bonn (Axel Berger), the Swiss Federal Institute of Technology in Zürich (Peter Egger), the World Trade Institute in Bern (Manfred Elsig), and the University of Ottawa (Wolfgang Alschner) to generate a coding scheme based on text recognition that allows wide, cost-efficient and continuously updatable data on the contents of IIAs. We have produced a code-book which identifies 311 variables (figure 2) and collected and formatted treaty texts to prepare them for machine reading. If we succeed in carrying out the coding, the IIA dataset will be the world's most extensive and detailed, and contribute significantly to filling gaps in the empirical knowledge on the universe of IIAs. The combination of the ITA and IIA datasets will place us in a unique position internationally in terms of empirical analyses of the interaction between ITA and IIAs.

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Figure 2: IIA database – structure and variables



In addition to extraction of data from the two databases, we will interview government officials and other relevant actors (e.g. counsel, arbitrators, employees of arbitration institutions) to gain better understanding of how governments have handled the legitimacy crisis of international investment law. In preliminary conversations with relevant officials, we have become aware of several factors that existing scholarly research on this topic has tended to overlook, including: the use of in-house or external counsel; different branches of government are responsible for drafting of treaties and responding to arbitration in many cases; significant and unexpected variation among countries in institutional capacity and reputational concerns; and differences in whom government officials consider to be their “legitimacy audiences” (varying from IGOs, aid agencies and treaty partners to parliamentarians, businesses, voters and NGOs). These may be important explanatory factors for explaining variation in how states respond to ITA.

The project will employ a mixed methods approach combining quantitative and qualitative analysis. Quantitative analysis will involve statistical methods including regression analysis of various dependent variables (such as types of treaty provisions across time and variations in outcomes in ITA), text analysis of ITA awards and IIA texts using machine learning techniques, and network analysis of types of IIAs and ITAs and networks of actors involved in the reform of the international investment regime (governmental actors, arbitral institution actors, legal counsel, arbitrators, foreign investors and scholars). Qualitative analysis will be used to map shifts in both IIAs and ITAs using process tracing techniques, conduct case studies of particular trends in ITA cases and treaty reform efforts drawing on interviews.

Our primary hypothesis is that some states’ responses to ITA will go beyond what is needed to fulfil their role as respondents in the ITA cases in question. Such responses would aim at signalling these states’ discontent with the regime. Building on a typology that we have developed in **Langford et al. 2017**, we distinguish between two forms of acts carried out by states to signal their attitude towards international investment law: acts carried out by states as “principals”, i.e. as treaty-makers and international regime designers, and acts carried out by states as “litigants”, i.e. acts intended to send signals beyond the case in question. We will also distinguish according to the scope and intensity of the acts. Acts by states may be “weak” and not intended to engender significant reform, rather constituting discreet expression of discontent. Other acts may be considered as “strong” in the sense that they are intended to signal preferences for significant regime reform. Examples include high profile individual acts, such as withdrawal from institutions or treaties, or systemic use of lower profile acts, such as systematic renegotiation of treaties or systematic use of procedural remedies during proceedings.

Figure 3 melds this principal/litigant and strong/weak dichotomy. States that adopt strong acts as both principals and litigants can be characterised as absolute opponents: reflecting their total opposition to the regime. States that seek reform but largely play by the rules of fair litigation can be labelled principled opponents: they wish to change the framework but largely abide by previous commitments. States that largely support the regime but seek to obstruct proceedings when subject to ITA through strong use of procedural means and obstructive measures can be labelled reluctant compliers. Finally, there is a diverse

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group of states that adopt weak or no acts of opposition which we label compliers: they actively or passively signal a formal commitment to the regime.

Figure 3: Classifying states in terms of their responses to ITA

		Acts as principals	
		Strong	Weak or none
Acts as litigants	Strong	Absolute opponents	Reluctant compliers
	Weak or none	Principled opponents	Compliers

Building on Hirschman’s (1970) distinction between exit and voice, where exit involves a break with the regime while the use of voice seeks regime reform (see also Welsh et al 2014) we propose the following preliminary typology of acts of states as principals (figure 4).

Figure 4: Mapping states’ acts as principals

		Strong acts as principals (absolute or principled opponents)	Weak acts as principals (reluctant compliers or compliers)
		Exit	Systemic termination of treaties Systematic termination of ISDS <sup>2</sup> provisions Systematically refraining from ratifying signed treaties
Voice	Withdrawal from ICSID <sup>3</sup> Attempting forced treaty renegotiation Systemic political delegitimation New model treaties	Sporadic treaty renegotiation Sporadic clarifications of treaties Sporadic adoption of new model treaty clauses	

As indicated in figure 4, we suggest that strong acts as principals would in most cases correspond to states being classified as absolute or principled opponents to the regime, while weak acts as principals would in most cases correspond to states being classified as reluctant compliers or compliers.

The distinction between states’ acts into the categories of exit and voice does not fit well with their acts as litigants, since it is hard to imagine states’ acts as litigants that would signal exit from the regime. Therefore, in figure 5, we propose to distinguish between acts of states that involve the use or abuse of their powers as sovereigns and acts that could be regarded as intended to obstruct the proceedings or increase the costs of proceedings for the investor.

Figure 5: Mapping states’ acts as litigants

		Strong acts as litigants (possible absolute opponents or reluctant compliers)	Weak acts as litigants (principled opponents or compliers)
		(Ab)using position as sovereign	Abusing criminal proceedings during disputes Refusing to enforce or satisfy arbitral awards Reinterpretation of treaty after a dispute is filed
Obstruction	Vigorous litigation tactics to delay proceedings or make them costly Delaying enforcement of awards	Vigorous litigation tactics within the parameters of the ‘equality of arms’ principle	

In contrast to states’ strong and weak acts as principals, we suggests that strong acts as litigants would correspond with states potentially being classified as absolute opponents or reluctant compliers, while weak acts as litigants would correspond to states being principled opponents or compliers. This is due to the fact

<sup>2</sup> Investor – State Dispute Settlement

<sup>3</sup> The International Centre for the Settlement of Investment Disputes

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that some of the strong acts can be regarded as illegitimate and hard to associate with states classified as principled opponents.

We have carried out a preliminary mapping of states acts (**Langford et al. 2017**). The project will use the two databases to map states acts in much more detail. Our aim is to identify variation among categories of states and among the three issue areas (environment, human rights and development), and use this variation to identify and test explanatory factors.

Rational choice theories (Simmons 2014, Manger and Peinhardt 2017, Haftel and Thompson 2017) lead us to expect that states terminate or change international institutions when these institutions no longer fulfil a useful function for the governments. Governments learn from each other's experience; we would expect that if one country has undergone a costly set of arbitration cases, then other governments, observing these cases, may alter their obligations. Therefore, if, as Simmons (2014) argues, ITA has "underdelivered investment and delivered costly litigation instead" then we would expect to see governments making widespread changes to their treaties and to arbitration, in order to make it better serve their interests. Rational choice theories also provide tools to explain ITA tribunal behavior. Principal-agent frameworks portray tribunals as agents with authority delegated from states (Stone Sweet and Grisel 2017). As tribunals respond to the "legitimacy crisis", and in particular, when they believe states-as-principals are dissatisfied with ITA, then tribunals may exercise more restraint or deference towards states-as-litigants.

There are two alternative variants of "rationalist institutionalist" theory that we believe will offer relevant insights for this project: 1) Bounded rationality; relaxing the assumption that governments are fully rational actors leads us to different expectations. As an example, Poulsen and Aisbett (2013) and Poulsen (2015) argue that governments may not terminate or change their investment treaty obligations until these obligations directly and negatively affect them. 2) Historical institutionalist scholars expect that institutions persist, even when they generate unintended consequences for governments (**St.John forthcoming**). Over time constituencies develop and positive feedback mechanisms stabilize institutions and make it more difficult for governments to exit, even when certain officials within government (for instance, those that respond to ITA cases) wish to exit. Scholars in this tradition expect that governments may be slow to exit and when changes occur, they take the form of gradual institutional changes.

## 4. Project plan, project management, organisation and cooperation

The project will be divided into six work packages (WPs) as follows:

*WP 1 Data generation and processing:* The focus will be on database work and setting the stage for the project, including the carrying out of initial interviews. The primary task will be to establish the database on IIAs. The project will allow us to move forward more speedily in collaboration with the project's cooperating partners. Notably, iCourts – The Danish National Research Foundation's Centre for Excellence for International Courts will contribute data and coding to this project, and the GDI will contribute substantive input to the codebook. We have communicated with other the organizers of other relevant databases, in particular UNCTAD, and will further develop our cooperation with such institutions.

We expect output from this WP to be two peer reviewed articles.

*WP 2 Substantive WP with focus on IIA and ITA design:* Based on our preliminary literature survey of the extensive normative and empirical literature on the legitimacy of and backlash against ITA and IIAs (our preliminary survey has identified close to 1000 articles and book contributions, some of these are identified in **Behn 2014**), this WP will:

- a) Identify and classify criticisms that have been directed against ITA and IIAs, and
- b) Identify, classify and discuss remedies that have been proposed in terms of redesign of the substantive, procedural or institutional provisions of IIAs.

Given the very strong domination of English and Western literature in the field, we will make a special effort at mapping academic contributions in other languages and from other parts of the world. In particular, we expect to find significant contributions from academics in countries that have been directly involved in IIA negotiations and ITA, in particular Latin America, Africa and South-East Asia.

We expect output from this WP to be three peer reviewed articles or book chapters.

*WP 3 Substantive WP with focus on environmental issues:* The impact of ITA on the design of IIAs in the field of environmental protection has been fairly well documented in existing academic literature (**Behn and**

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**Langford 2017**). Nevertheless, this WP will test whether prevailing assumptions regarding the causal relationship between ITA and IIA design holds true in light of new data. We will also investigate whether there have been significant shifts over time and explore potential causes of such shifts.

The main focus of this WP will be on whether and how changes in IIAs affect ITA, both directly and indirectly. Since there has been very limited case law based on treaties with significant environmental clauses, our main focus is likely to remain on indirect effects. We will seek to explore the relative importance of IIA reform as compared to other factors. In light of, inter alia, the important discourse on environmental issues, the relatively wide-spread impact assessment of negotiation of IIAs (Gehring et al 2017), and the diffusion of environmental clauses in IIAs, we would expect there to be significant impact from treaty reform on ITA case outcome. The WP will aim to identify variation in outcome and try to identify possible explanatory factors

We expect output from this WP to be two peer reviewed articles and one special issue of a journal.

*WP 4 Substantive WP with focus on human rights:* While there is a long history of human rights debates in the context of international investment law and corporate social responsibility and there have been some controversial cases that have concerned investor projects that have had serious human rights implications, it is puzzling that there is so little evidence of associated reforms of IIAs. The first task of this WP will be to map the diffusion of human rights related clauses in IIAs and identify potential explanatory factors for their (non-)inclusion.

The different trajectories of IIA reform in relation to environmental and human rights provide a good basis for exploring the causal relationships between ITA and IIA reforms in these two fields. This WP will build on findings in WP 3 regarding diffusion of environmental clauses in IIAs, and use similarities and differences between the two issue areas to further determine the relevance and importance of ITA as a causal factor.

We expect output from this WP to be two peer reviewed articles and one special issue of a journal.

*WP 5 Substantive WP with focus the potential of IIAs to contribute to sustainable development of least developed countries (LDCs):* The traditional view has been that IIAs raise significant challenges regarding LDCs as such treaties offer investors wide-ranging rights at the expense of the policy freedom of poor states (Poulsen 2015). This view has been accompanied by a perception that ITA may be biased against such countries (**Behn et al 2017**), and might be further aggravated by LDCs' weak negotiating position when faced with investors that threaten to initiate ITA. Hence, there seem to be good reasons why LDCs refrain from entering into IIAs and are absent from ITA.

However, we may also ask whether IIAs could have the potential announced in many of the preambles of recent treaties: to contribute to sustainable development in developing countries. Many international institutions and states attach increasing importance to the development potential of foreign direct investment (e.g. UNCTAD 2013, UNCTAD 2014). If we assume that IIAs might have a role to play in generating such investment, and that such a role would be particularly important in relation to countries with weak domestic institutions, it is puzzling that there remains limited focus on LDCs as IIA partners and limited use of ITA in relation to LDCs. Norway is a prime example in this context, as it has a strong reputation for allocating significant resources to development aid while at the same time it seems to have no interest in entering into IIAs with LDCs.

This WP will build on the contrary views presented by Sornarajah (2016) who argues that it is wrong to regard investment law as a form of development law, and Echandi (2016) who sees an important role for international investment law to promote development in developing countries. First, the WP will explore and seek to explain patterns of diffusion of IIAs and investment protection clauses among LDCs. Secondly, in light of the low participation of LDCs in ITA (**Behn et al 2017**), this WP will set out to investigate the extent to which there is evidence that investors use threats of ITA or (threats of) international commercial arbitration in the context of disputes with such countries.

We expect output from this WP to be three peer reviewed articles and one special issue of a journal.

*WP 6 Lessons to be learned:* The main project participants will cooperate to author a book that discusses in depth the main findings of the project. This WP will also look beyond international investment law and explore whether and under what conditions the findings regarding the interaction between ITA and IIAs are relevant for other fields of international law. This WP will benefit from the systematic research on all

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regional economic courts being conducted by iCourts, one of the project partners. This offers a highly relevant comparative view for generalizing the findings. Based on a call for papers and an international conference, we intend explore these issues in an edited book.

We expect output from this WP to be one monograph, one edited book and one peer reviewed article.

*Project management and organization:* This four-year project will be led by Professor Ole Kristian Fauchald, who has significant experience in leading research projects, with the assistance of one researcher in law/political science, one PhD candidates in law/political science and research assistants. Malcolm Langford has been extensively involved in our research associated with the project, and will contribute to the project. The project will be institutionally hosted by PluriCourts, benefitting from its organizational structure and its established academic cooperation with Norwegian institutions and international researchers.

The multidisciplinary focus of the project on law and political science is facilitated by the existing multi-disciplinary framework at PluriCourts, which has involves senior researchers in both disciplines. Engagement with PluriCourts researchers beyond the project leader will involve engagement with political scientists and engagement with scholars focusing on dispute settlement in the fields of environment and human rights. This will effectively enrich and cross-fertilize the research across disciplines and subject areas.

*Cooperation:* The project envisages both national and international cooperation established on the basis of existing PluriCourts activities. National cooperation will continue the established interaction with NGOs, government agencies and politicians on the questions of Norway's investment policies. With regard to international cooperation, the project will establish formal cooperation with the GDI (Axel Berger) which will primarily be involved with WPs 3 and 5, iCourts (Mikael Rask Madsen, Günes Ünüvar and Ioannis Damastianos Panagis), which will primarily be involved with WPs 1 and 6, and City University of London (Taylor St.John), which will primarily be involved with WP 5. Moreover, the project will be closely engaged with an inter-disciplinary IIA coding project that involves the World Trade Institute in Bern, the University of Ottawa, and the Swiss Federal Institute of Technology in Zürich.

## 5. Key perspectives and compliance with strategic documents

The project will provide benefits to society in three main respects: 1) The project's focus on the relationship between IIAs and ITA, on the one hand, and the environment, human rights and development, on the other, will provide a solid basis for deriving societal benefits from the project. 2) The project's focus on LDCs will provide support to these countries' attempts to participate and benefit more actively from international economic relations. 3) Norway's policy on IIAs has remained undetermined for more than two decades. We hope that our project may facilitate political discussions on how Norway should relate to international investment law in the future. The project will provide an improved basis for positive contributions to global justice and environmental protection. The project will not come into conflict with commonly recognized values as defined by the Norwegian National Research Ethics Committees. Interviews will be carried out in accordance with ethical standards. We will seek to achieve gender balance when recruiting researchers to the project.

## 6. Dissemination and communication of results

The project will benefit from its location with PluriCourts, which has a well-established framework for disseminating research results and participating in public debates. A project web-page will be established along with the existing web-pages of PluriCourts. The project will actively contribute to the PluriCourts Blog as well as other relevant blogs. Given the need to engage with government officials, lawyers and civil society, the project will organise regular lunch seminars where we present work in progress or findings and we will invite others to present their perspectives on the issues we research. In order to reach broader audiences, we will organise annual public meetings on current topics to stimulate debate and engage the media. Students of law and political science will be focus groups of our communications, and we will seek to inspire such student groups to write dissertations and essays on our topics of research, offering them to draw on data from our databases. The project will establish an advisory reference group that will include representatives of key user and stakeholder groups, in particular public authorities, NGOs, business associations, and lawyers. Finally, we will make use of the Faculty of Law's facilities to document events and lectures through videos and streaming.



## 7. Additional information relating to IKTPLUSS

The project manager has extensive experience in building and maintaining databases, having established and maintained a database on multilateral treaties since 2009 ([jus.uio.no/treaties/](http://jus.uio.no/treaties/)), been responsible for the establishment of the ITA database ([jus.uio.no/pluricourts/english/topics/investment/research-projects/database.html](http://jus.uio.no/pluricourts/english/topics/investment/research-projects/database.html)). The data collected in the project will be organized in the form of “general applicability” databases (as opposed to project-specific data), which means that the databases can function as hubs for the publication of other datasets on ITA and IIAs that scholars and researchers have developed independently for their projects. Such data from external sources can be used as “feed-in” data and this will significantly increase the value of our data and the external data. Moreover, we would seek to update project-specific data that is made available to us and that we consider to be particularly important as a supplement to our core data. Given our need for flexibility regarding the formatting, entering and publication of data as well as our need for international cooperation, we will use servers that are independent of the ordinary servers at the University of Oslo. We have entered into an agreement with the Oslo University Center for Information Technology in this regard.

Our ambition to establish and maintain world leading general applicability databases on ITA and IIAs based on machine reading of large volumes of text will place us firmly in the forefront of international research in the field of international investment law. Moreover, our experiences in this regard will benefit other initiatives at the Faculty of Law to promote empirically based research on the relationship between law and society, in particular through the recent establishment of relevant research groups. Our cooperation with iCourts will be essential given their significant expertise in computer sciences and advanced use of machine reading and databases in the first five-year project period.

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