

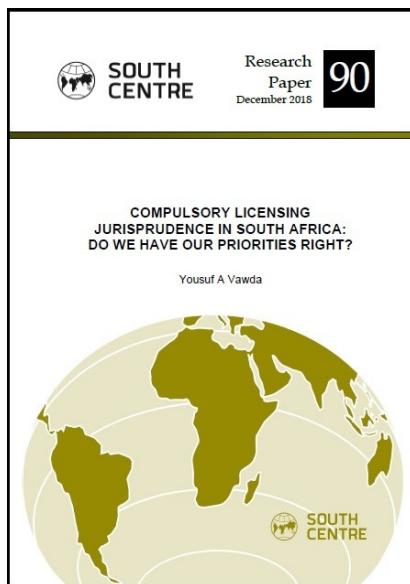
December 2018, Issue 6

**The South Centre Monthly** is a monthly update which provides a snapshot of the publications and social media activities of the South Centre

## PUBLICATIONS

### *Research Papers*

#### **Research Paper 90, December 2018: Compulsory Licensing Jurisprudence in South Africa: Do We Have Our Priorities Right?**



*Compulsory licences are generally available on a variety of grounds, most notably on patents where the patentee is found to have abused its rights in one manner or another. This research paper attempts to review South African case law on applications for compulsory licences since the inception of the current legislation, analyse the interpretations placed on the relevant sections, and draw conclusions about judicial reasoning, impediments to the grant of such licences, and generally the courts' approach to disputes relating to patents.*

*Les licences obligatoires autorisant l'utilisation d'un brevet peuvent être délivrées pour diverses raisons, notamment quand le titulaire de brevet a abusé de ses droits d'une manière ou d'une autre. Le présent document examine la jurisprudence sud-africaine relative aux demandes de licences obligatoires depuis l'introduction de la législation en vigueur, analyse les interprétations qui sont faites des dispositions en la matière et dresse des conclusions sur le raisonnement juridique, sur les obstacles à l'octroi des licences et, de manière générale, sur la manière dont les tribunaux traitent les différends relatifs aux brevets.*

*Las licencias obligatorias de patentes suelen otorgarse por diferentes motivos, especialmente cuando se demuestra que el titular de una patente ha abusado de sus derechos de una manera u otra. Este documento de investigación tiene por objeto examinar la jurisprudencia de Sudáfrica sobre las solicitudes de licencias obligatorias desde la institución de la legislación vigente, analizar las interpretaciones de los artículos pertinentes y extraer conclusiones sobre el razonamiento jurídico, los*

*impedimentos para la concesión de dichas licencias y en general, sobre el enfoque adoptado por los tribunales en las controversias sobre patentes.*

Available from: <https://www.southcentre.int/research-paper-90-december-2018/>

## Policy Briefs

### Tax Cooperation Policy Brief 5, December 2018: The Definition and Treatment of Tax Havens in Brazilian Tax Law between 1995 and 2015

The cover of the policy brief includes the South Centre logo, the title 'TAX COOPERATION POLICY BRIEF', the subtitle 'The Definition and Treatment of Tax Havens in Brazilian Tax Law between 1995 and 2015\*', the author's name 'Alexander Alcio Lage Martins', and the date 'No. 5 • December 2018'.

**I. PROBLEM DEFINITION**  
Although "tax havens" and "tax haven lists" are terms often used in the media, little attention is paid to the fact that the definition of a tax haven is not uniform and may vary greatly from country to country.

For instance, the Organisation for Economic Co-operation and Development (OECD) has issued an updated list of tax havens. The OECD Secretary-General Report to G20 Leaders<sup>1</sup>, dated July 2017, states that:

Because of the perspective of the G20 to identify non-cooperative jurisdictions on the tax transparency standards, it is important to note that the G20 has not yet adopted a definition or asked to adopt the multilateral Convention on Mutual Administrative Assistance in Tax Matters. This is why the G20 has decided to postpone the automatic exchange of financial account information until 2019, to give time for the implementation of the convention; and 17 jurisdictions have imposed their Global Financial Integrity Act, as well as that only one (Venezuela and Tobago) remains "Non Compliant".

**Abstract**  
Over the years, a number of 'tax haven lists' have been created at the national and international level, with varying definitions and criteria used to identify jurisdictions falling under their scope. This policy brief presents the experience of Brazil in compiling their national list of tax havens, the road map they followed for its implementation, and the impact that it has had on their foreign investment flows. It also provides the lessons learnt from this experience, which can be positively utilized by other developing countries.

Ces dernières années, plusieurs listes nationales et internationales de paradis fiscaux ont été établies, dans lesquelles les définitions et les critères utilisés pour déterminer les juridictions qui entrent dans leur champ d'application varient. Le présent rapport se penche sur l'expérience du Brésil en la matière et examine le processus que le pays a suivi pour élaborer sa liste nationale de paradis fiscaux et les conséquences qu'elle a eues sur les investissements étrangers. Le rapport présente également les enseignements tirés de l'expérience du Brésil, qui peuvent servir aux autres pays en développement.

<sup>1</sup> The policy brief is written in the author's personal capacity and does not reflect any official opinion or position of the Brazilian Tax Authority.

*Over the years, a number of 'tax haven lists' have been created at the national and international level, with varying definitions and criteria used to identify jurisdictions falling under their scope. This policy brief presents the experience of Brazil in compiling their national list of tax havens, the road map they followed for its implementation, and the impact that it has had on their foreign investment flows. It also provides the lessons learnt from this experience, which can be positively utilized by other developing countries.*

*Ces dernières années, plusieurs listes nationales et internationales de paradis fiscaux ont été établies, dans lesquelles les définitions et les critères utilisés pour déterminer les juridictions qui entrent dans leur champ d'application varient. Le présent rapport se penche sur l'expérience du Brésil en la matière et examine le processus que le pays a suivi pour élaborer sa liste nationale de paradis fiscaux et les conséquences qu'elle a eues sur les investissements étrangers. Le rapport présente également les enseignements tirés de l'expérience du Brésil, qui peuvent servir aux autres pays en développement.*

*En los últimos años se han creado tanto en el ámbito nacional como internacional una serie de «listas de paraísos fiscales» que hacen uso de diferentes definiciones y criterios para determinar las jurisdicciones que entran en su ámbito de aplicación. Este informe sobre políticas se centra en la experiencia del Brasil al respecto y se examina el proceso seguido por el país para elaborar su lista de paraísos fiscales y las consecuencias de esta lista para la inversión extranjera. Asimismo, se exponen las lecciones de la experiencia del Brasil, que pueden ser útiles para otros países en desarrollo.*

Available from: <https://www.southcentre.int/tax-cooperation-policy-brief-5-december-2018/>

## Investment Policy Brief 12, December 2018: Investor-State Dispute Settlement: An Anachronism Whose Time Has Gone

The cover features the South Centre logo, the title "INVESTMENT POLICY BRIEF No. 12 • December 2018", and the subtitle "Investor-State Dispute Settlement: An Anachronism Whose Time Has Gone\*". It also includes the author's name, Johannes Schwarzer, and his affiliation, Council on Economic Policies (CEP) Fellow.

**Abstract**

Investor-State Dispute Settlement (ISDS) – a mechanism that allows foreign investors to bring claims against host governments to an international arbitral tribunal – is a relic that should be abolished. Its alleged benefits have not materialized and its costs – monetary and other – can represent a formidable obstacle to good economic governance. We recommend policymakers to terminate ISDS provisions in existing agreements and eschew them in future trade and investment treaties.

**Le résumé**

Le mécanisme de règlement des différends entre investisseurs et États (RDIE), au titre duquel les investisseurs étrangers peuvent déposer un recours à l'encontre des États devant un tribunal international d'arbitrage, est un vestige qui devrait être aboli. Les avantages qu'il est censé apporter ne se sont pas concrétisés et les coûts, financiers et d'autres types, qu'il engendre sont un obstacle majeur à la bonne gouvernance économique. Nous recommandons aux décideurs politiques d'abroger les dispositions relatives au RDIE figurant dans les accords en vigueur et, à l'avenir, d'éviter de conclure des accords d'investissement et de commerce qui en contiennent.

**El resumen**

El mecanismo de solución de controversias entre inversores y Estados (SCIE), del que pueden valerse los inversores para presentar reclamaciones contra los Estados receptores ante un tribunal internacional de arbitraje, es un vestigio que debería ser abolido. Sus supuestos beneficios no se han materializado y sus costos, financieros y de otro tipo, pueden ser un obstáculo tremendo para la buena gobernanza económica. Recomendamos a los responsables de la formulación de políticas eliminar las disposiciones relativas a la SCIE en los acuerdos vigentes y evitar incluirlas en los futuros acuerdos de comercio e inversión.

\*This policy brief was previously published by the Council on Economic Policies (CEP).

**Investor-State Dispute Settlement (ISDS) – a mechanism that allows foreign investors to bring claims against host governments to an international arbitral tribunal – is a relic that should be abolished. Its alleged benefits have not materialized and its costs – monetary and other – can represent a formidable obstacle to good economic governance. We recommend policymakers to terminate ISDS provisions in existing agreements and eschew them in future trade and investment treaties.**

**Le mécanisme de règlement des différends entre investisseurs et États (RDIE), au titre duquel les investisseurs étrangers peuvent déposer un recours à l'encontre des États devant un tribunal international d'arbitrage, est un vestige qui devrait être aboli. Les avantages qu'il est censé apporter ne se sont pas concrétisés et les coûts, financiers et d'autres types, qu'il engendre sont un obstacle majeur à la bonne gouvernance économique. Nous recommandons aux décideurs politiques d'abroger les dispositions relatives au RDIE figurant dans les accords en vigueur et, à l'avenir, d'éviter de conclure des accords d'investissement et de commerce qui en contiennent.**

**El mecanismo de solución de controversias entre inversores y Estados (SCIE), del que pueden valerse los inversores para presentar reclamaciones contra los Estados receptores ante un tribunal internacional de arbitraje, es un vestigio que debería ser abolido. Sus supuestos beneficios no se han materializado y sus costos, financieros y de otro tipo, pueden ser un obstáculo tremendo para la buena gobernanza económica. Recomendamos a los responsables de la formulación de políticas eliminar las disposiciones relativas a la SCIE en los acuerdos vigentes y evitar incluirlas en los futuros acuerdos de comercio e inversión.**

Available from: <https://www.southcentre.int/investment-policy-brief-12-december-2018/>

# Investment Policy Brief 13, December 2018: IP License, Trademarks and ISDS: Bridgestone v. Panama

**INVESTMENT POLICY BRIEF**  
IP Licence, Trademarks and ISDS:  
Bridgestone v. Panama\*

By Pratyush Nath Upadhyay

**I. Introduction**  
On 27 October 2016, Bridgestone Licensing Services, Inc. (BSLS) and Bridgestone Americas, Inc. (BSAM), two companies incorporated in the United States, together initiated arbitration proceedings on the grounds that the Panamanian Supreme Court's decision was unjust and arbitrary. The First Superior Court of the First Judicial District diluted its trademarks, 'operates as a *de facto* protection device in trademark law', and violated BSLS's and BSAM's rights and difficulties in enforcing trademarks. The precise grounds for the arbitration were that the Panamanian Supreme Court's decision was unjust and arbitrary, violated Panama's obligations under the United States-Panama Trade Promotion Agreement (TPA), expropriated their investments, and violated the requirement of fair and equitable treatment (FET) to BSLS's and BSAM's investments. The TPA, which is a bilateral investment agreement, does not have a provision on expedited objections but was where the Tribunal clarified the question of intellectual property (IP) licence as

an investment, but the final award is awaiting. In this paper, I will briefly discuss arguments raised by both parties on the question of whether the investment contract or investment intellectual property licence agreement and definition of investment.

**II. Background to the case**  
Bridgestone Corporation (BS) is a Japanese company, owns the trademarks 'BRIDGESTONE' and 'FIRESTONE', registered in several countries including the United States and market its trademarks but allows subsidiary companies owned by BS to use the trademarks under license. Bridgestone Licensing Services, Inc. (BSLS) and Bridgestone Americas, Inc. (BSAM) are subsidiary companies of the Bridgestone Corporation. BSLS and BSAM are the holders of the 'FIRESTONE' trademark was assigned to BSLS. On 1 December 2001, BSLS and BSAM entered into a trademark license agreement with BS to use the 'FIRESTONE' trademark registered in South American countries.

**Abstract**  
Can an intellectual property right or a license authorizing its use be deemed an 'investment' under bilateral investment treaties? This policy brief discusses the arguments submitted by the parties in the Bridgestone Licensing Services, Inc. and Bridgestone Americas, Inc. v. Republic of Panama case on questions regarding a trademark license agreement. Bridgestone Licensing Services, Inc. (BSLS) and Bridgestone Americas, Inc. (BSAM) together initiated arbitration proceedings on the grounds that Panama's Supreme Court decision was unjust and arbitrary, violated Panama's obligations under the United States-Panama Trade Promotion Agreement (TPA), expropriated their investments, and violated the requirement of fair and equitable treatment (FET) to BSLS's and BSAM's investments.

**Un droit de propriété intellectuelle ou une licence autorisant son utilisation peuvent-ils être considérés comme des investissements en vertu des accords bilatéraux d'investissement ? Le présent rapport examine les arguments invoqués par les parties adverses dans l'affaire opposant Bridgestone Licensing Services, Inc. et Bridgestone Americas, Inc. à la République du Panama au sujet d'un contrat de licence de marque. Bridgestone Licensing Services, Inc. (BSLS) et Bridgestone Americas, Inc. (BSAM) ont entamé une procédure conjointe d'arbitrage au motif que la décision de la Cour suprême panaméenne est injuste et arbitraire, qu'elle est contraire aux obligations qui incombent au Panama au titre de l'Accord de libre-échange entre les États-Unis et le Panama, qu'elle a pour effet d'exproprier leurs investissements et qu'elle porte atteinte au principe de traitement juste et équitable des investissements de BSLS et de BSAM.**

**¿Puede un derecho de propiedad intelectual o una licencia que autorice su uso considerarse una inversión en virtud de los tratados bilaterales de inversión (TBI)? En este informe sobre políticas se analizan los argumentos presentados por las partes en el caso Bridgestone Licensing Services, Inc. y Bridgestone Americas, Inc. contra la República de Panamá sobre cuestiones relativas a un acuerdo de licencia de marca. Bridgestone Licensing Services, Inc. (BSLS) y Bridgestone Americas, Inc. (BSAM) iniciaron juntas procedimientos de arbitraje alegando que la decisión de la Corte Suprema de Panamá es injusta y arbitraria, que viola las obligaciones de Panamá en virtud del Tratado de Promoción Comercial (TPC) entre Panamá y los Estados Unidos de América, expropia sus inversiones y viola el principio de trato justo y equitativo para las inversiones de BSLS y BSAM.**

*Can an intellectual property right or a license authorizing its use be deemed an 'investment' under bilateral investment treaties? This policy brief discusses the arguments submitted by the parties in the Bridgestone Licensing Services, Inc. and Bridgestone Americas, Inc. v. Republic of Panama case on questions regarding a trademark license agreement. Bridgestone Licensing Services, Inc. (BSLS) and Bridgestone Americas, Inc. (BSAM) together initiated arbitration proceedings on the grounds that Panama's Supreme Court decision was unjust and arbitrary, violated Panama's obligations under the United States-Panama Trade Promotion Agreement (TPA), expropriated their investments, and violated the requirement of fair and equitable treatment (FET) to BSLS's and BSAM's investments.*

*Un droit de propriété intellectuelle ou une licence autorisant son utilisation peuvent-ils être considérés comme des investissements en vertu des accords bilatéraux d'investissement ? Le présent rapport examine les arguments invoqués par les parties adverses dans l'affaire opposant Bridgestone Licensing Services, Inc. et Bridgestone Americas, Inc. à la République du Panama au sujet d'un contrat de licence de marque. Bridgestone Licensing Services, Inc. (BSLS) et Bridgestone Americas, Inc. (BSAM) ont entamé une procédure conjointe d'arbitrage au motif que la décision de la Cour suprême panaméenne est injuste et arbitraire, qu'elle est contraire aux obligations qui incombent au Panama au titre de l'Accord de libre-échange entre les États-Unis et le Panama, qu'elle a pour effet d'exproprier leurs investissements et qu'elle porte atteinte au principe de traitement juste et équitable des investissements de BSLS et de BSAM.*

*¿Puede un derecho de propiedad intelectual o una licencia que autorice su uso considerarse una inversión en virtud de los tratados bilaterales de inversión (TBI)? En este informe sobre políticas se analizan los argumentos presentados por las partes en el caso Bridgestone Licensing Services, Inc. y Bridgestone Americas, Inc. contra la República de Panamá sobre cuestiones relativas a un acuerdo de licencia de marca. Bridgestone Licensing Services, Inc. (BSLS) y Bridgestone Americas, Inc. (BSAM) iniciaron juntas procedimientos de arbitraje alegando que la decisión de la Corte Suprema de Panamá es injusta y arbitraria, que viola las obligaciones de Panamá en virtud del Tratado de Promoción Comercial (TPC) entre Panamá y los Estados Unidos de América, expropia sus inversiones y viola el principio de trato justo y equitativo para las inversiones de BSLS y BSAM.*

Available from: <https://www.southcentre.int/investment-policy-brief-13-december-2018/>

## **SouthNews**

### **SOUTHNEWS No. 237, 3 December 2018: Combating Antimicrobial Resistance to Achieve the 2030 Agenda in Africa**

(This SOUTHNEWS was also released as SOUTH CENTRE NEWS ON AMR. See below.)

Available from: <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=8d4296768a>

### **SOUTHNEWS No. 238, 6 December 2018: The Beirut Consensus on Financing for Development**

*The evaluation of the Financing for Development process from the First International Conference on Financing Sustainable Development indicates that the international financial system is not generating the volume of long-term financing needed to meet the sustainable development goals because of inadequate reforms and cooperation at the international level. Below is the Beirut Consensus on Financing for Development delivered by Mr. Mounir Tabet, Acting Executive Secretary, United Nations Economic and Social Commission for Western Asia (UNESCWA) at the conclusion of the conference organized by UNESCWA in Beirut on 28-29 November 2018.*

*L'évaluation du processus de financement pour le développement qui a été faite à l'occasion de la première conférence internationale sur le financement du développement durable montre que le système financier international ne génère pas le volume de financement à long terme qui est nécessaire à la réalisation des objectifs de développement durable (ODD) à cause de réformes inadéquates et du manque de coopération à l'échelle internationale. Nous reproduisons ci-dessous le consensus de Beyrouth sur le financement pour le développement présenté par Mounir Tabet, secrétaire exécutif adjoint par intérim de la Commission économique et sociale des Nations Unies pour l'Asie occidentale (CESAO) à la conclusion de la Conférence organisée par la CESAO à Beyrouth (Liban) les 28 et 29 novembre 2018.*

*La evaluación del proceso de la financiación para el desarrollo con ocasión de la primera conferencia internacional sobre financiación para el desarrollo sostenible indica que el sistema financiero internacional no está generando el volumen de financiación a largo plazo necesario para alcanzar los objetivos de desarrollo sostenible (ODS) debido a la deficiencia de las reformas y a la insuficiencia de cooperación en el ámbito internacional. A continuación reproducimos el Consenso de Beirut sobre Financiación para el Desarrollo presentado por Mounir Tabet, secretario ejecutivo interino de la Comisión Económica y Social de las Naciones Unidas para Asia Occidental (CESPAO), al concluir la conferencia organizada por la CESPAO en Beirut los días 28 y 29 de noviembre de 2018.*

Available from: <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=3e8e6f8d75>

### **SOUTHNEWS No. 239, 18 December 2018: Development Perspectives on WTO Reform**

*H.E. Mr. Alexandre Parola, Ambassador of the Permanent Mission of Brazil to the World Trade Organization (WTO), emphasizes that in order for discussions on WTO reform to succeed, they need to be inclusive and reflect a balanced agenda comprising issues of interest of developing countries and least developed countries (LDCs). Below is his statement at the Third South-South Dialogue on LDCs and Development held in Geneva on 7 December 2018.*

*Selon Alexandre Parola, représentant permanent du Brésil auprès de l'Organisation mondiale du commerce (OMC), pour aboutir, les négociations sur la réforme de l'OMC doivent être inclusives et se fonder sur un programme de travail équilibré qui contienne des sujets présentant un intérêt pour les pays en développement et les pays les moins avancés (PMA). Nous présentons ci-dessous la déclaration qu'il a faite à l'occasion du troisième Dialogue Sud-Sud sur les PMA et le développement à Genève, le 7 décembre 2018.*

*Para Alexandre Parola, representante de la Misión Permanente del Brasil ante la Organización Mundial del Comercio (OMC), el éxito de las discusiones sobre la reforma de la OMC depende de que estas sean inclusivas y se basen en un programa equilibrado que abarque las cuestiones importantes para los países en desarrollo y para los países menos adelantados (PMA). A continuación publicamos su declaración en el marco del tercer Diálogo Sur-Sur sobre los PMA y el desarrollo que tuvo lugar en Ginebra (Suiza) el 7 de diciembre de 2018.*

Available from: <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=c5a9c9b6b7>

## **SOUTHNEWS No. 240, 20 December 2018: Business and Human Rights and the Global System of Allocating Taxing Rights**

*As duty holders of human rights with the responsibility to protect these rights, states have the obligation to vigorously defend their taxing rights. Developing country states, in particular, should avoid tax standards and practices which legitimize and facilitate the shifting of their tax base to beyond the reach of their domestic authorities. Well-meaning voluntary efforts in the international arena by private companies often reinforce the Organisation for Economic Co-operation and Development (OECD)'s norms to the detriment of the interests of developing country tax jurisdictions.*

*En tant que garants des droits humains et responsables de leur protection, les États ont l'obligation de défendre ardemment leurs droits d'imposition. Les pays en développement notamment devraient se garder d'adopter des normes et des pratiques d'imposition qui légitiment et facilitent le transfert de l'assiette fiscale vers des juridictions hors de portée des autorités nationales. Les bonnes intentions prises à titre volontaire par des entreprises privées sur la scène internationale renforcent souvent les normes établies par l'Organisation de coopération et de développement économiques (OCDE) au détriment des intérêts des juridictions fiscales des pays en développement.*

*Como garantes de los derechos humanos y responsables de protegerlos, los Estados tienen la obligación de defender vigorosamente sus derechos impositivos. Los países en desarrollo en particular, deberían evitar la adopción de normas y prácticas impositivas que legitimen y faciliten el traslado de su base impositiva a jurisdicciones fuera del alcance de sus autoridades nacionales. Las iniciativas voluntarias y bien intencionadas de empresas privadas en el ámbito internacional suelen reforzar las normas de la Organización de Cooperación y Desarrollo Económicos (OCDE), en detrimento de los intereses de las jurisdicciones fiscales de los países en desarrollo.*

Available from: <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=b6c00b5f3d>

## **SOUTH CENTRE NEWS ON AMR No. 27, 6 December 2018: Combating Antimicrobial Resistance to Achieve the 2030 Agenda in Africa**



*Guidance from the global level on funding opportunities and technical assistance are critical components to successfully combat antimicrobial resistance (AMR) in Africa and achieve the Sustainable Development Goals (SDGs). This is one of the conclusions of the conference organized by the South Centre, in partnership with ReAct Africa and the Ecumenical Pharmaceutical Network (EPN), in Nairobi, Kenya on 5-7 November 2018 to analyze the interlinkages between the SDGs and AMR.*

*Les orientations mondiales sur les nouvelles possibilités de financement et l'assistance technique sont des éléments indispensables pour lutter efficacement contre la résistance aux antimicrobiens (RAM) en Afrique et pour réaliser les objectifs de développement durable (ODD). Telle est l'une des conclusions de la conférence organisée par le Centre Sud en collaboration avec ReAct Africa et l'Ecumenical Pharmaceutical Network (EPN), à Nairobi (Kenya) du 5 au 7 novembre 2018 pour examiner les liens entre les ODD et la RAM.*

*La orientación a nivel mundial sobre nuevas posibilidades de financiación y la asistencia técnica son elementos indispensables para combatir la resistencia a los antimicrobianos en África y alcanzar los objetivos de desarrollo sostenible (ODS). Esta es una de las conclusiones de la conferencia organizada conjuntamente por el Centro del Sur, ReAct Africa y la Ecumenical Pharmaceutical Network (EPN) en Nairobi (Kenya) del 5 al 7 de noviembre de 2018 a fin de analizar la interrelación entre los ODS y la resistencia a los antimicrobianos.*

Available from: <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=bd1ad007f5>

## Social Media

### Twitter Highlights:

#### Top Tweet earned 1,510 impressions

#ISDS is a relic that should be abolished. Policymakers are recommended to terminate ISDS provisions in existing agreements and eschew them in future #trade and #investment treaties. #IIAs southcentre.int/investment-pol... pic.twitter.com/K36r4Vaqkm

Investor-state disputes (ISDS) are part of other international agreements like the North American Free Trade Agreement (NAFTA), the United Nations Convention on International Trade in Goods (CITIG) and other upcoming agreements that are yet to enter into force like the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive Economic and Investment Partnership (CEIP). All aforementioned trade agreements contain provisions for investor-state dispute resolution (ISDS) in instances where investors believe they have been wronged by a host government, leading to legal action against the state.

After a spectacular expansion starting in the 1980s and culminating in the late 1990s, global ISDS cases have grown only slightly since the 2000s, displaying substantial volatility in comparison with e.g. global trade flows. Global ISDS cases (US\$ 67 billion) are still rising, while global ISDS awards (US\$ 67 billion) have fallen to developing countries, leaving a sizable gap with the amounts needed to advance a meaningful ISDS agenda.<sup>1</sup>

Until July 2018, 152 Investor ISDS claims have been filed, of which 54% had been concluded, 20% of these decisions had been decided in favour of the investor or settled. The first ISDS case was filed over 30 years ago and fewer than 30 cases have been filed each year since 2000, making the increase in cases a recent phenomenon.<sup>2</sup>

#### Abstract

Investor-State Dispute Settlement (ISDS) – a mechanism that allows foreign investors to bring claims against host governments

1 3 7 1 11 7

#### Top media Tweet earned 1,209 impressions

Jovan Kurbalija (Diplomatic Foundation - @DiplomacyEdu ) and Carlos Correa, Exec Dir @South\_Centre , celebrate successful conclusion of the Course on Digital Policy and #Diplomacy co-sponsored in 2018 by the South Centre. diplomacy.edu/courses/Digital... pic.twitter.com/6OMti8Ziy7



1 1 3 5

#### Top mention earned 79 engagements

Balasubramaniam  
@ThiruGeneva · Dec 7

@WHO Roadmap on access to medicines and vaccines - Deliverables on the Application and management of intellectual property to contribute to innovation and promote public health #EB144

@South\_Centre @jamie\_love  
@ellenthoen pic.twitter.com/o8t5ZC56Ki

#### Deliverables

Promotion of public health-oriented licensing agreements and transparency regarding the patent status of existing and new health technologies.

Information provided on country experiences promoting public health approaches in the implementation of health-related provisions of the TRIPS agreements, including relevant TRIPS flexibilities and intellectual property management.

A review of mechanisms and incentives for access to affordable health technologies enabled by publicly funded research and development.

Support for the expansion of the Medicines Patent Pool in patented essential medicines and patented medicines included in WHO treatment guidelines through identification of potential products for licensing.

#### Action – Provide technical support and capacity building

#### Deliverables

Technical support provided (as appropriate, upon request, in collaboration with other competent international organizations), including to policy processes and procedures that intend to make use of the provisions contained in TRIPS, such as the flexibilities recognized by the Doha Declaration on the TRIPS Agreement and Public Health and other WTO instruments related to TRIPS, in order to promote access to pharmaceutical products.

4 5 1 11 14

#### DEC 2018 SUMMARY

#### Tweets

25

#### Tweet impressions

34.1K

#### Profile visits

2,269

#### Mentions

72

#### New followers

27

**South Centre** @South\_Centre · Dec 17  
 The @MedsPatentPool Expert Advisory Group (EAG) discussed progress made in performing MPP's mandate and new areas where its intervention may expand access to medicines. The @South\_Centre Executive Director participated as member of the EAG. #patents #medicines #accessibility



Carlos Maria Correa

You

2 2 2

**South Centre** @South\_Centre · Dec 20  
 South Centre's mission statement echoes its resolve to strive for South unity and a level playing field in international negotiating processes, while recognizing diversity of national interests and priorities. southcentre.int/about-the-sout... #development #cooperation #Diversity #unity

**South Centre's Mission Statement**

Achieving the Sustainable Development Goals (SDGs), particularly poverty eradication, requires national policies and an international regime that supports and does not undermine development efforts. The South Centre is an intergovernmental policy research think-tank composed of and accountable to developing country Member States. It conducts policy-oriented research on key policy development issues, and supports developing countries to effectively participate in international negotiating processes that are relevant to the achievement of SDGs. The Centre promotes the unity of the South in such processes while recognizing the diversity of national interests and priorities.

You

2 2 2

**South Centre** @South\_Centre · Dec 10  
 The @South\_Centre continues to support the achievement of binding treaties to protect #traditionalknowledge, #traditionalculturalexpressions and #geneticresources at @WIPO's IGC 38



You

3 5 2

**South Centre** @South\_Centre · Dec 18  
 Carlos Correa, Exec. Dir of @South\_Centre & Julio Aldana, director @invimacolombia , at the opening of the Dialogue between government entities & academia on IP & #accesstomedicines organized by the South Centre in Bogota. #intellectualproperty #accessibility #medicines



Carlos Maria Correa and Julio César Aldana

12 18 2

**South Centre** @South\_Centre · Dec 7  
 Reform of @WTO should aim at fulfilling #MarrakeshAgreement's objective of increasing #developingcountries' & #LDCs' share in global #trade, & achieving #SDGs, notably #povertyeradication - Carlos Correa, @South\_Centre Exec Dir, at 3rd #SouthSouth Dialogue on LDCs & #Development.



You

3 2 2

**South Centre** @South\_Centre · Dec 13  
 Carlos Correa, Exec Dir @South\_Centre, discussed with Amb. Eduardo Tempone and his team (Argentine Foreign Ministry) current proposals for @WTO reform & need for a positive agenda from #developingcountries that reflect their common interests in the #multilateral system. #trade



Carlos Correa

4 1 2

**South Centre** @South\_Centre · Dec 10

While preaching open doors for #FDI in #developingcountries, #USA & #EU adopted in 2018 measures to filter & disapprove FDI. See US Foreign Investment Risk Review Modernization Act, treasury.gov/resource-cente...; EU investment screening framework, europa.eu/rapid/press-re...

2 4

**South Centre** @South\_Centre · Dec 3

@South\_Centre congratulated @DNDi for its recent success with #fexinidazole, the first all-oral treatment for #sleepingsickness, and discussed at the Rio de Janeiro's office continued cooperation on #IP & #accesstomedicines in #LatinAmerica.



Carlos Maria Correa

3 6

**South Centre** @South\_Centre · Dec 5

@South\_Centre participates at 'AMR & #SustainableDevelopment : addressing funding and financing' workshop organized in Uppsala by @reactgroup & @DagHammarkjold Foundation to discuss effective funding strategies regarding #AMR



3 7

**South Centre** @South\_Centre · Dec 5

@South\_Centre convened meeting on the 28th of November, 2018 on the #AppellateBody crisis @WTO and discussed proposals by #EU, #China, #India et al (WT/GC/W/752&753). See Summary bit.ly/2FZkE1r & Proposals bit.ly/2zFSgM7 bit.ly/2riMDz2

3 2

**South Centre** @South\_Centre · Dec 6

Prof. Yuefen Li, @South\_Centre Senior Adviser for #SouthSouthCooperation and #DevelopmentFinance, made a presentation in the validation workshop organized by @isdb\_group on National Ecosystems for #SouthSouth and #TriangularCooperation.



3 4

**South Centre** @South\_Centre · Dec 5

Side event by @South\_Centre & @3rdworldnetwork : speakers shared views on importance of #equity and ambition in implementing the #ParisAgreement #COP24; greater #ClimateAction is only possible with #equity between developed and #developingcountries. #Katowice #ClimateChange



2 2

**South Centre** @South\_Centre · Dec 3  
 @South\_Centre booth @COP24 #Katowice featuring our #ClimateChange Research Papers on the equitable sharing of atmospheric and development space southcentre.int/research-paper... #responsetochange southcentre.int/research-paper... and #adaptation southcentre.int/research-paper.... #developingcountries #CBDR



4 4 0

**South Centre** @South\_Centre · Dec 6  
 Carlos Correa Exec Dir @South\_Centre participates as guest speaker at the Governing Council of the Common Fund for #Commodities in the #Hague; presents trends in #investmentprotection, #trade & #technologicalchange



2 3 0

Follow us through Twitter: [South\\_Centre](#) 

Copyright © 2018 South Centre, All rights reserved.



**Our mailing address is:**

South Centre  
 Chemin du Champ d'Anier 17  
 POB 228, 1211 Geneva 19  
 Switzerland

Tel.: +41 22 791 8050

E-mail: [south@southcentre.int](mailto:south@southcentre.int)

South Centre Website: <http://www.southcentre.int> (English, French, Spanish)

