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Investor-State Dispute Settlement Mechanisms under the Trans-Pacific Partnership Agreement—Comparison between the ICSID Procedures and UNCITRAL Arbitration Rules^{*}

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Abstract

In light of the growth in regional economy integration, Taiwan has endeavored to participate in FTAs such as the TPP. The investment chapter of the TPP includes not only provisions of substantive treatments towards investment, but also ISDS mechanisms. Should a dispute arise, an investor will be allowed to request for arbitration against a host state in accordance with ICSID Convention art. 25(1) or ICSID Additional Facility Rules, or alternatively commence arbitral proceedings

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under the UNCITRAL Arbitration Rules. These three arbitration procedures share the same principle of party autonomy, but are differently designed in various detailed aspects, such as the composition of the tribunal, the mechanisms promoting procedural efficiency, the prevention of frivolous claims, transparency in arbitral proceedings, and most importantly, the enforcement of and remedy against the awards. Once Taiwan joins the TPP, it is necessary to understand such procedures.

Keywords: TPP, ISDS, ICSID Convention, ICSID, UNCITRAL Arbitration Rules