

# OBJECTS AND PURPOSE OF INVESTMENT AGREEMENTS

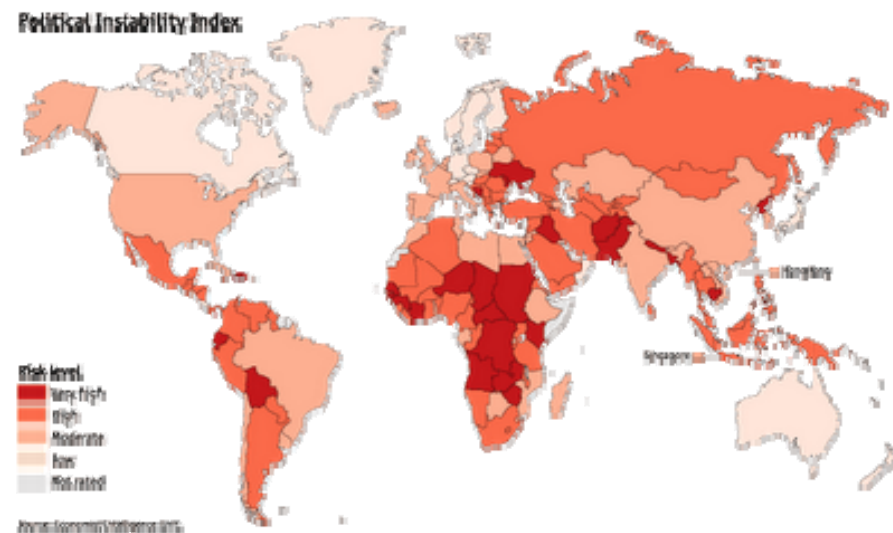
ESCAP/ITD/WTO Capacity Building Programme on Trade in Services and  
Investment Liberalization Negotiations  
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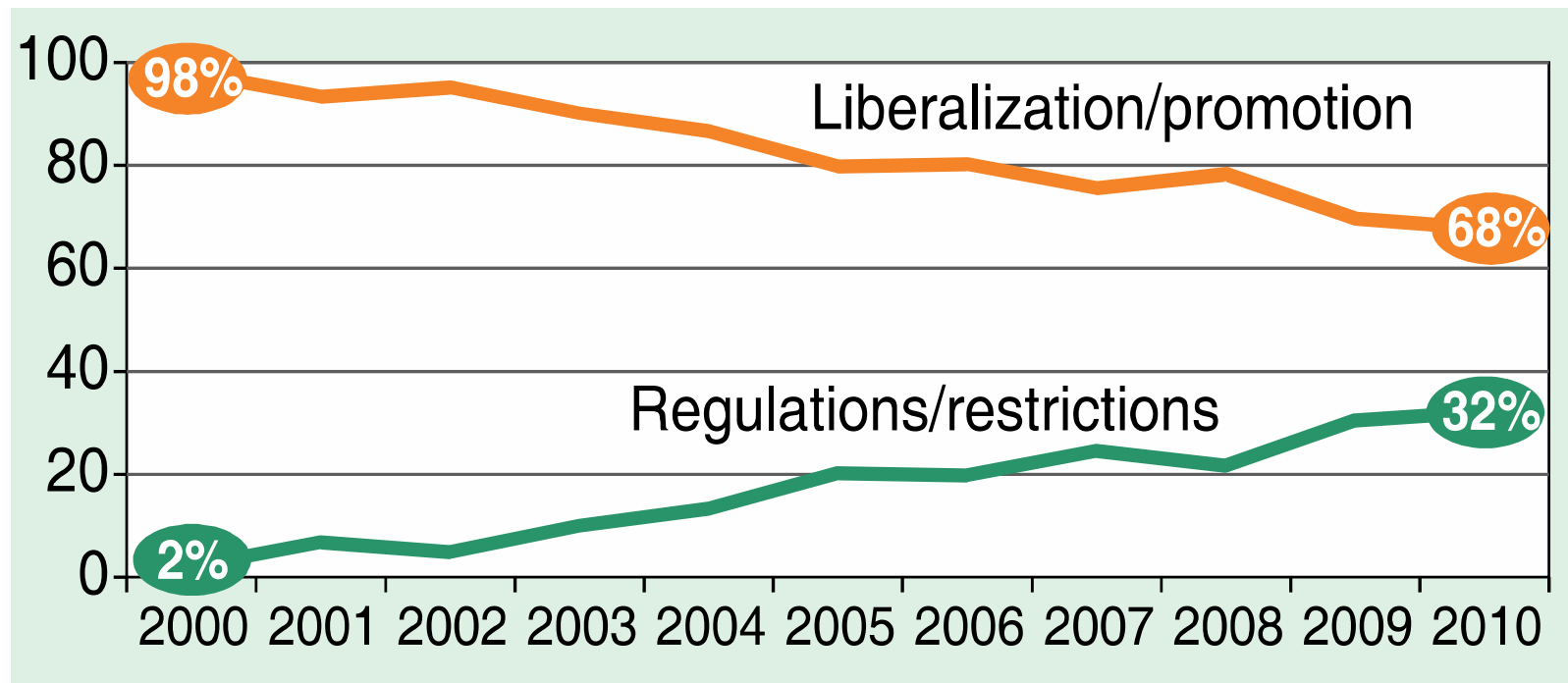
*“May you live in interesting times...”*

- Risks for Foreign Direct Investments (FDI)
  - Political
  - Economic Crisis
  - Policy Change



2009/2010

# Investments - National Regulatory Changes (percentages)



Source: UNCTAD, Investment Policy Monitor database.

# Possible Regulatory Changes

- Nationalization of Property
- Repudiation of Concessions or Contracts
- Sudden Tax Increases
- Change of Laws
- Capital Controls

# Advantages of IIAs

## No IIA

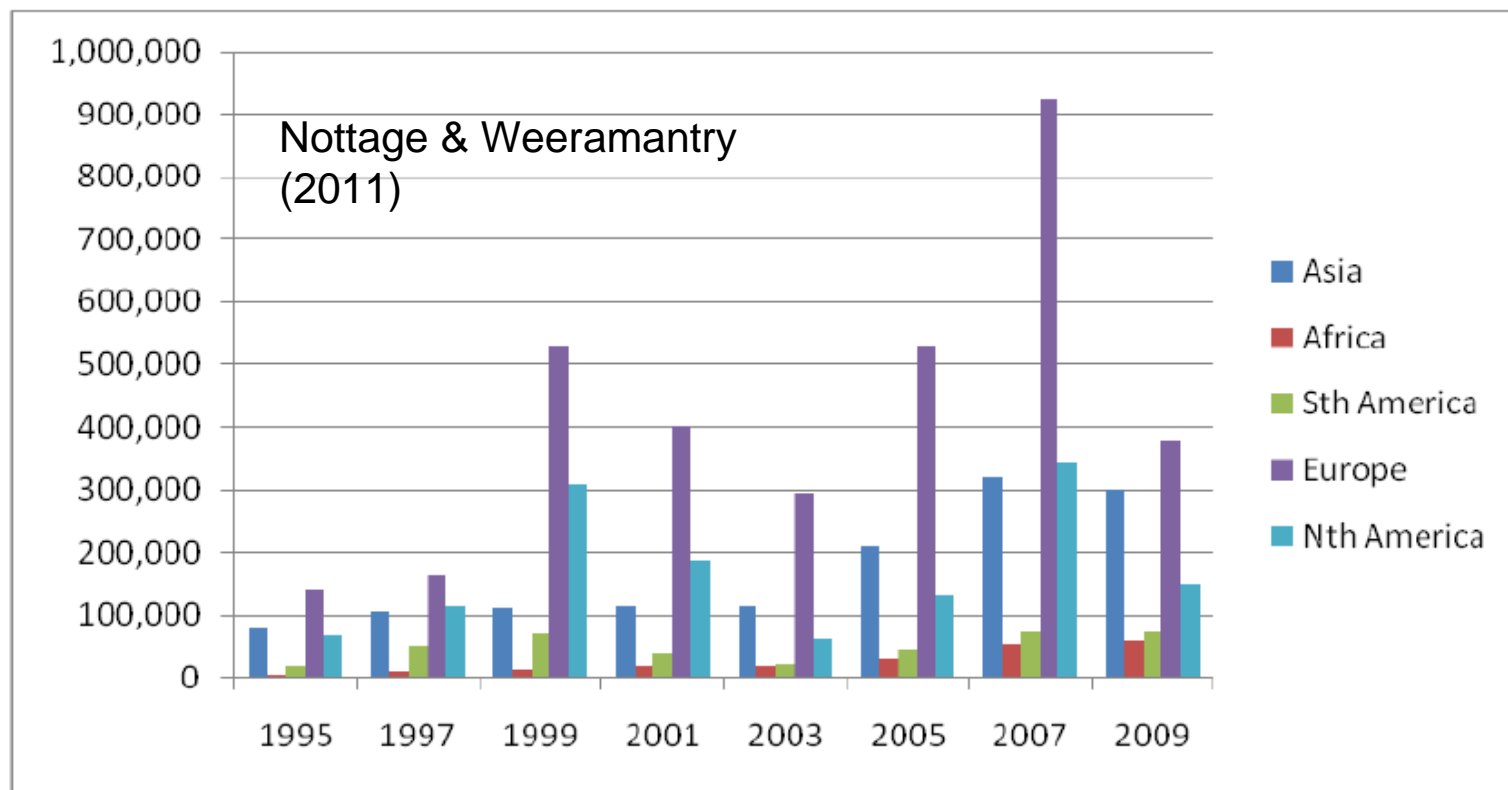
- Domestic courts
- Domestic law
- Possible sovereign immunity defence
- Domestic enforcement

## IIA

- International tribunal
- International law
- State consent to arbitration
- International enforcement

# Investment Inflows by Regions

Figure 4. *Investment inflows (US\$ millions, by region)*<sup>27</sup>



# Malaysian Historical Salvors v Malaysia (Annulment) (2009)

- Judge Mohamed Shahabuddeen (Dissenting Opinion)
- Para 2 - The question which separates me from them is whether a contribution to the economic development of the host State is a condition of an ICSID “investment.”
- Para 62 - Was the jurisdiction of ICSID meant to be solely dependent on the will of the parties? Or, was it meant to be dependent on the will of the parties subject to conformity with the overriding objectives of ICSID as a body concerned with the economic development of the host State?
- The former may be referred to as the ‘subjectivist’ view, the latter as the ‘objectivist’ view.
- ***The cleavage marks a titanic struggle between ideas, and correspondingly between capital exporting countries and capital importing ones.***

[https://www.yunbaogao.cn/report/index/report?reportId=5\\_7713](https://www.yunbaogao.cn/report/index/report?reportId=5_7713)

预览已结束，完整报告链接和二维码如下：



## in Capital Imports and Exports in ted Countries (USD millions)

| Capital Import |         |            | Capital Export |         |            |
|----------------|---------|------------|----------------|---------|------------|
| 2005           | 2010    | % Increase | 2005           | 2010    | % Increase |
| 1,044          | 938,059 | 232%       | 151,458        | 431,531 | 285%       |
| 1,344          | 472,579 | 261%       | 79,259         | 180,949 | 228%       |
| 1,094          | 578,818 | 213%       | 57,206         | 297,600 | 520%       |
| 1,202          | 197,939 | 458%       | 9,741          | 92,407  | 949%       |
| 1,740          | 327,249 | 144%       | 29,641         | 66,152  | 223%       |
| 1,879          | 127,047 | 121%       | 38,683         | 138,984 | 359%       |