

国际投资 条约汇编



中华人民共和国对外贸易经济合作部 编

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警官教育出版社

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GUOJI TOUZI TIAOYUE HUIBIAN

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《国际投资条约汇编》

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序

当前世界经济的一个突出特点是国际直接投资的增长率连续几年超过世界经济的增长率，也超过对外贸易的增长率。国际直接投资已成为全球经济增长的“引擎”。

无论对资本输出国还是资本输入国而言，国际投资都具有十分重要的意义。发达国家在向经济快速增长地区输出国内剩余资本、以谋取资本效益的最大化、带动本国经济增长的同时，也大量利用外资为本国经济发展服务；发展中国家通过引入外资，不但引进了资金、先进的技术和管理经验，而且有利于国内有效竞争的市场秩序的建立及尽早与世界经济融为一体。外国投资对于经济增长的促进作用不断为各地区新兴工业国家的成功经验所证实，日益成为世界各国的普遍共识。

为此，争取国际投资成为许多国家经济政策的重要环节，各国围绕引进外资展开了激烈的竞争。

作为竞争手段，各国在改善本国经济条件的同时，纷纷致力于法律环境的改善。一方面，各国不断完善现有的外资法律，出台有利于吸引外资的新政策、新法规，其中既包括对外资的优惠鼓励措施、也包括以取消或减少对外资限制为内容的自由化措施，如1996年各国新出台的外资措施中有60%为自由化措施；另一方面，各国积极商签政府间双边投资保护协定，以促进与其他国家投资关系的发展，为两国投资者在对方国家的投资利益提供法律保障，达到吸引外资和保障海外投资者权益的目的。为此，世界各国广泛缔结了相当数量的政府间双边投资保护协定，截至1996年底，全球已缔结了1330多个此类协定，形成覆盖165个国家和地区的双边投资保护法律体系。其中90年代签署的此类协议增长最快，发展中国家之间相互签署此类协议的也在快速增加。这些协议为鼓励和促进全球投资起到了相当重要的作用。

改革开放以来，我国在利用外资方面可以说取得了举世瞩目的成就。到目前为止，我国已连续5年成为发展中国家引进外资总量最多的国家，成为仅次于美国的世界第二引资大国。通过引进外资，我们引入了资金、先进技术和管理经验，培训了部分人才，创造了就业机会，引入了竞争机制，而适度有效的竞争促进了国内市场机制的形成和发展。与此同时，我国对外投资也取得了长足进展。海外投资对锻炼国内企业的国际竞争能力、开辟国际市场、弥补国内资源的不足起到了积极作用。

利用外资是我国的一项长期政策。党的十五大进一步明确了积极合理有效地利用

外资的方针，提出要依法保护外商投资企业的权益，对外商投资实行国民待遇；同时也提出了利用两个市场、两种资源发展海外投资的战略目标。要在竞争日益激烈的国际环境中不断自我超越、完成这些目标并创出新的成绩，不仅要实现利用外资和海外投资方面量的突破，而且要实现质的提高，即要改善和优化结构，可谓任重而道远。

为完成上述任务，面对各国为改善法律环境纷纷出台新的竞争手段，我们也必须进一步完善我国的法律环境，使之更加符合国内市场经济体制的要求和国际竞争的需要。在加强外资法律建设的同时，我们每一个外经贸干部和职工都应该加强法律知识的学习，提高自身法律意识。我们的海外企业应熟悉我国签署的双边投资保护协定，加强利用法律手段进行自我保护的意识，如在投资当地发生纠纷，可以诉诸协议提供的法律手段解决。另外，我们对外资和海外投资进行管理部门也要学习、研究这些双边投资协议，以便了解我国在国际条约中所作的承诺，履行我们所应承担的国际义务。只有依法管理、依法行政，才能避免失误。

《国际投资条约汇编》一书收集了从1982年至1996年底我国政府与他国政府签署的80余个双边投资保护协定，并收入了世界贸易组织有关投资的协议及我国参加的隶属于世界银行的两个有关国际投资机构的公约——《解决一国国民与他国投资争端的国际公约》和《多边投资担保机构公约》。希望该书的出版为大家的学习和研究提供便利，也为广大投资者利用这些协议保护自身的合法权益提供便利。我各驻外机构应积极向在外投资的企业宣传这些条约，使海外企业能利用法律手段保护自身权益。中央和地方各级外经贸主管部门也要学习、研究这些多双边协议中的法律问题，以便不断提高我们在利用外资和发展海外投资工作中依法管理的水平。

我相信，这部条约汇编的出版对全国外经贸行业及相关领域的法律研究和应用会大有裨益。

是为序。



1997年12月8日

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