

International treaty builds-up Colombian protection for Chinese investment.

国际协定为中国投资建立了哥伦比亚保护

The Bilateral Investment Protection Treaty entered into between China and Colombia is expected to enter into force in the second half of 2012. This treaty, together with other bilateral cooperation instruments, further consolidates Colombia as one of the preferred Chinese investment destinations, adding international protection and recourses to an already friendly, streamlined and secure legal environment.

中国和哥伦比亚之间签订的双边投资保护协定，预计将于2012年下半年生效。该协定，连同其他双边合作协议，将进一步巩固和加强哥伦比亚作为中国投资首选目的地之一的地位，并为已经友好、顺畅和牢固的法律环境又增添一种新的国际保护手段。

The World Bank¹ ranks Colombia as fifth country in the world and places it in first position in Latin America in terms of investor protection legislation and policy. In addition to the high level of local law protection, Colombia entered into a Bilateral Investment Treaty with the People's Republic of China ("BIT"), thus further consolidating Colombia as a top-of-the-line destination for Chinese investments.

The BIT is expected to enter into force in the second half of 2012 after the Colombian constitutional court signed off on the text and the ratification process was completed in Colombia.

In addition to a wide range of provisions which are standard in these types of treaties (such as "national treatment" and "most favoured nation" provisions), the BIT provides additional regulations, as set out below.

- Under the BIT both countries have agreed to promote bilateral investments, and further agreed to (subject to customary qualifications) refrain from adopting unreasonable or discriminatory measures against the administration, maintenance, use, enjoyment, divestiture or liquidation of investments by investors of either country in the other.

¹ Doing business, 2011.

- The protection granted under the BIT entails a covenant to grant fair and equitable treatment to each other's investors, together with full protection and security within their territories.
- Under the BIT the term "investor" covers not only persons in either jurisdiction, but is applied in a broad sense and extends to persons "controlled" by them. Therefore, efficient international structures may be put in place in different third-party jurisdictions, for example, to enhance synergies or take advantage of double taxation treaties and still claim protection under the BIT.
- In addition to the cooperation measures, the BIT establishes the obligation to facilitate entry and work permits for all personnel involved in activities related to the investment in either country.
- In terms of protection against expropriation (direct or indirect), as the fear of this unilateral action sweeps through the region, the BIT guarantees that no investment will be subject to this measure unless standard procedure is observed and adequate fair-market-value indemnification is provided.
- Subject to internal legislation standards, the BIT provides investors with protection over foreign exchange rights, allowing the inflow and outflow of capital of either party when necessary.
- Finally, the BIT establishes a detailed dispute resolution mechanism, which includes international arbitration between the two contracting parties and individuals of either party in certain cases. This guarantees an independent arbitral decision to settle disputes.

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