

International Investment Arbitration

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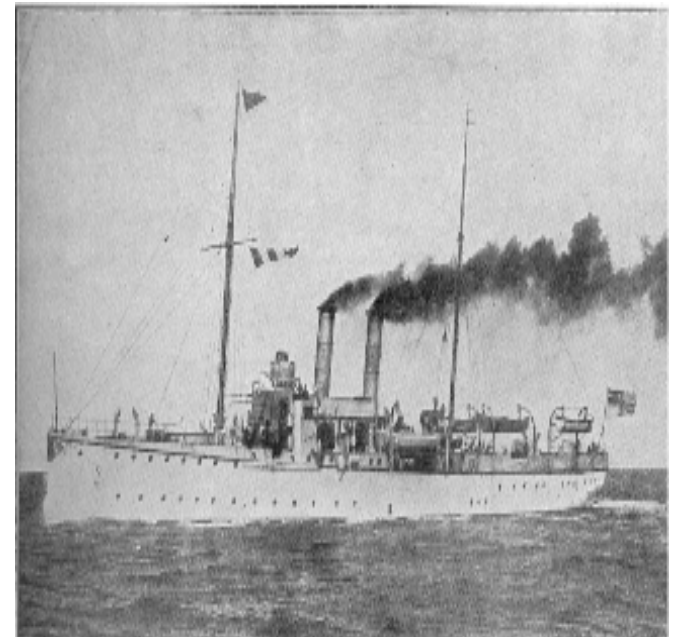
The genesis

- Foreign law
 - Expropriation
 - No subject to local law
 - Consular officers were the ones with jurisdiction about their nationals
- International investment law was created to protect the national abroad, within international public law.



Investment Law

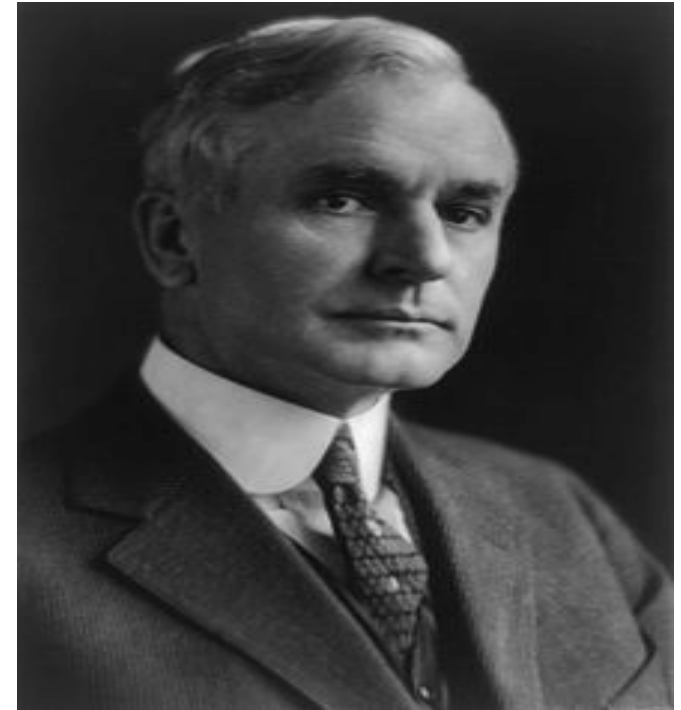
- Gunboat diplomacy.
Venezuela (1902); cobro de deuda externa (U.K., Alemania e Italia)
- Post war architecture
- FCN's



Introducción al Der. de la Inversión

- Calvo v. Hull
- First BIT (Germany-Paquistán 1959)
- ICSID / CIADI
- Modern BIT 's (+ de 2200)

<http://icsid.worldbank.org/ICSID/FrontServlet>



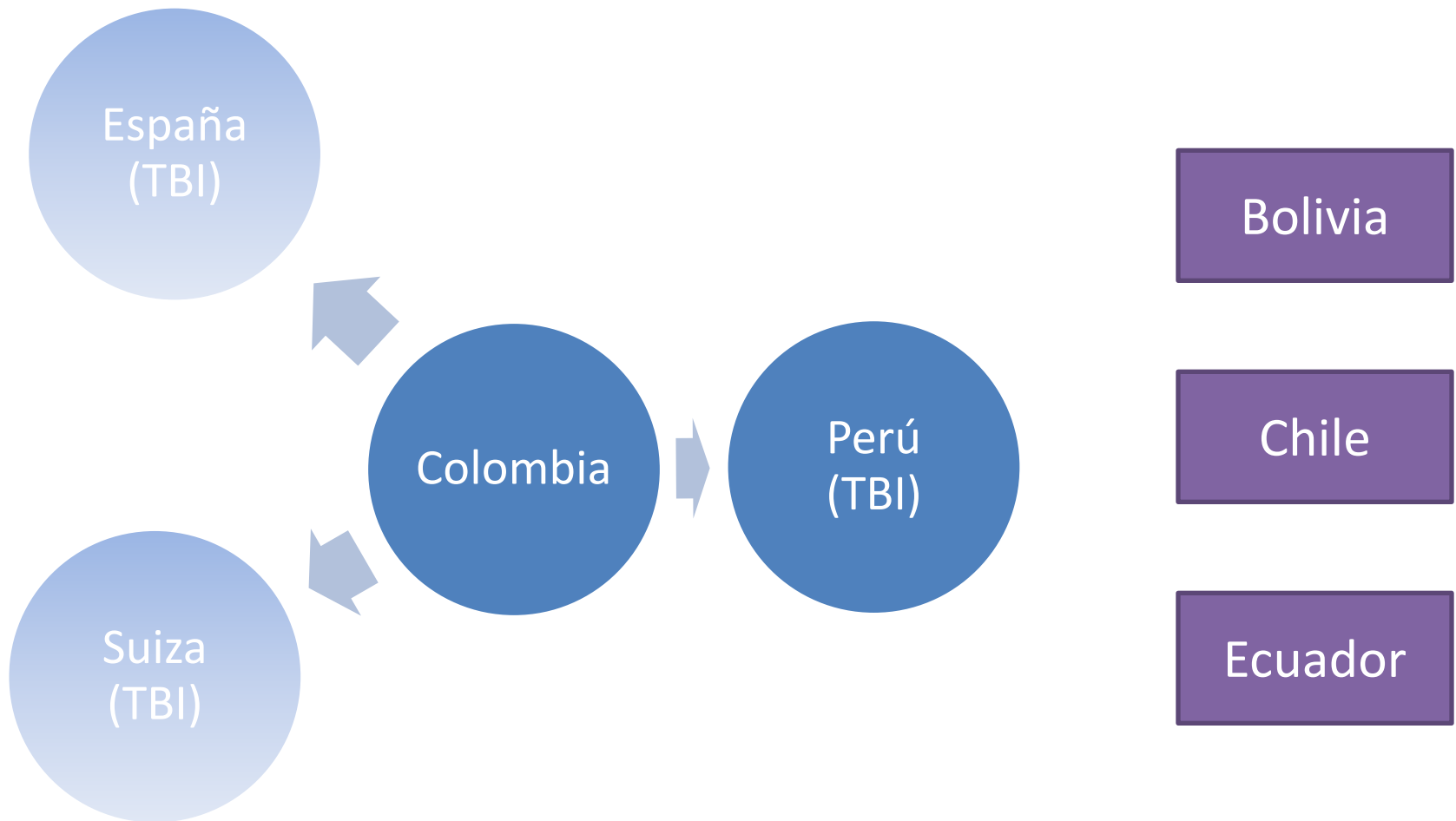
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Types of BIT's

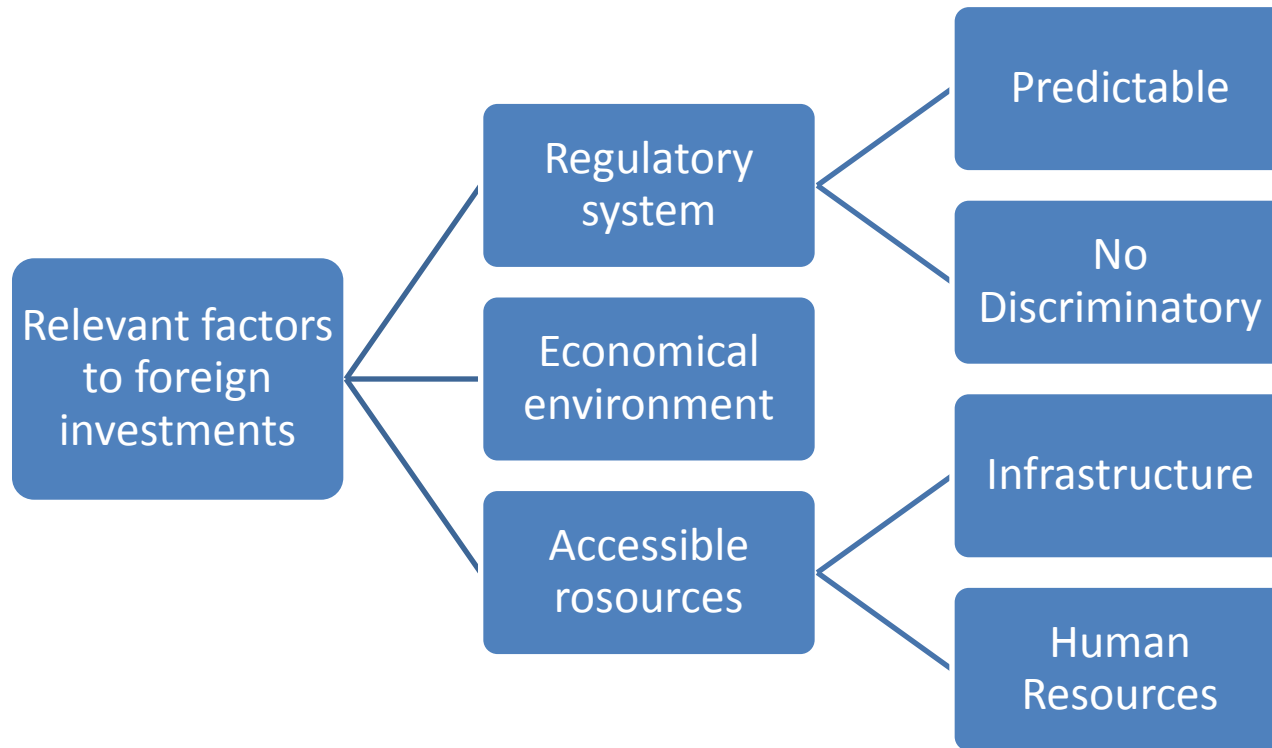
- First Generation (diplomatic protection)
- BIT's (*ius standi* for the investor)
- Procedural Treaties (*i.e.* CIADI)
- Enforcement treaties (*i.e.* Convención de NY)
- New generations? (*i.e.* Australia, UNASUR?)



Treaty Network



¿What a BIT means?



Fuente: OECD, *Checklist for FDI Incentive Policies*, p. 8; <http://www.oecd.org/dataoecd/45/21/2506900.pdf>.



What a BIT means?

- BIT rights stand alone despite local law and local contracts.
- BIT rights are in then Int'l Law Arena
- They do not generate more foreign investments per se. Another factor:
 - Tim Büthe & Hein Milner.
 - I.e.: Brasil.



Where do we go?

- Backlash?
- *A problem?*
- *A risk? Certain countries need BIT's*
- *New wave.*





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