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Conference Abstracts e-Handbook

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Table of Contents

Market abuse regulation in Australia: lessons for South Africa	4
PROF. HOWARD CHITIMIRA	4
Enforcement of Choice of Court Agreements: The Hague Convention Vis-A-Vis Indian Private International Commercial Law	4
DR. SALONI MAYUR KHANDERIA	4
Interrelationship Between Marine Carrier and International Sale Contract: Case Study of Jordan	5
MR. DERAR AL-DABOUBI.....	5
Junker’s five scenarios to Brexit and their impact on social security coordination	6
MRS. ANNA PRZYTULA-PIENIAZEK	6
Impact of National Culture on the Gender Diversity of Corporate Boards	7
DR. CATHERINE WHELAN AND DR. SARAH HUMPHRIES	7
The impact of RMB devaluation and CHAFTA on the Australian agricultural sector	8
DR. SAM MENG.....	8
Preferred habitat or window dressing? Evidence from foreign exchange swap market	8
DR. HAO-CHEN LIU DR. MARK WITTE, ASSOCIATE PROFESSOR	8
Losing the tag of 'Independent Director'- Role played by Nominee Directors in determining firm performance	9
MS. MANJULA SHUKLA.....	9
Gender Differences in Environmentally Conscious Purchasing Behavior of Generation Y Thai Consumers	9
DR. PATRICIA ARTTACHARIYA	9
Environmental Crisis and Sustainable Development in India: Setting Priorities Right	10
DR. RASHMIMALA SAHU.....	10
Analysis between usage factors of Smartphone: Focused on 2nd order confirmatory factor analysis of interaction	11
PROF. MINCHEOL KIM	11
Roles of Urban Periodic Markets in Relation to Drive Local Economy: A Case Study of Merchants’ Perspective in Bangkok Metropolis	11
DR. PAKORN MEKSANGSOUY	11
Retailer’s perception about Non-Carbonated drinks in selected cities of Gujarat	12
MR. CHINTAN KOTHARI.....	12
Review Of Indonesia’s Draft New Model of Bilateral Investment Treaty: Towards Economic Nationalism and Protectionism Policy?	12
DR. FIFI JUNITA.....	12
Listener	13
MR. THARANGA PADMASIRI	13
SUPPORT Staff	13
CONFERENCE COMMITTEE MEMBERS	14

1-AN01-4662**MARKET ABUSE REGULATION IN AUSTRALIA: LESSONS FOR SOUTH AFRICA**PROF. HOWARD CHITIMIRA¹

In Australia, the market abuse prohibition is generally well accepted by the investing and non-investing public as well as by the government. This co-operative and co-ordinated approach on the part of all the relevant stakeholders has to date given rise to an increased awareness and commendable combating of market abuse activities in the Australian corporations, companies and securities markets. It is against this background that this article seeks to comparatively explore the general enforcement approaches that are employed to combat market abuse (insider trading and market manipulation) activity in Australia and South Africa. In relation to this, the role of selected enforcement authorities and possible enforcement methods which may be learnt from both the Australian and South African experiences will be isolated where necessary for consideration by such authorities, especially, in the South African market abuse regulatory framework.

2-AN04-4885**ENFORCEMENT OF CHOICE OF COURT AGREEMENTS: THE HAGUE CONVENTION VIS-A-VIS INDIAN PRIVATE INTERNATIONAL COMMERCIAL LAW**DR. SALONI MAYUR KHANDERIA²

In the present era, forum-selection clauses or jurisdiction/choice of court agreements exemplify a vital aspect of party autonomy in commercial law insofar as they permit the parties to choose the court before which the dispute would be decided. It is in this context that role of the Hague Convention on Choice of Court Agreements (HCCA), which came into effect on 1 October 2015, is significant insofar as it lays down the uniform rules on the grounds for jurisdiction and recognition to be applied by the court chosen by the parties to an international dispute, in a civil and commercial matter. In particular, Articles 5 and 6 represent the two pillars of the HCCA insofar as they delineate respectively, the grounds for the jurisdiction of the chosen court and the obligation of the court not chosen in an exclusive choice of court agreement. Apropos, whilst Article 5 imposes a mandate on the chosen court in a contracting state not to decline jurisdiction “on the ground that the dispute should be decided by a Court of another State”, Article 6 furthermore obligates all the other courts of Contracting States to stay the proceedings, where exclusive jurisdiction has been conferred to another Court.

Although India is a Member of the Hague Conference, it is yet to sign and ratify the HCCA. In the domestic realm, matters pertaining to jurisdiction are governed in India, by the Code of Civil Procedure 1908 (CPC), with there being no specific provision to regulate the enforcement of forum-selection clauses in international matters. Whilst elucidating the regulation of choice of court agreements under the HCCA, this paper investigates whether Indian courts correspondingly enforce forum-selection clauses in international commercial agreements by means of suspending or dismissing proceedings before it, in circumstances where jurisdiction has been conferred on a foreign court by virtue of a choice of court agreement. Accordingly, this paper demonstrates the basis on which, Indian Courts would

¹ Prof. Howard Chitimira, Associate Professor, North West University.

² Dr. Saloni Mayur Khanderia, Assistant Professor and Assistant Dean (Academic Affairs), Jindal Global Law School.

uphold forum-selection clauses in international civil and commercial matters, in order to draw the complementarities, if any, that exist in this respect, between the HCCA and Indian private international law.

Consequently, the author highlights the plethora of judicial dicta to indicate that international commercial agreements entered into by parties for the purpose of conferring exclusive jurisdiction on a foreign/neutral Court, would be enforceable as per the principles of Indian private international law. Accordingly, by virtue of the Indian Supreme Court's ruling in *Modi Entertainment Network and Another v. W.S.G. Cricket PTE Ltd.* ([2003] 4 SCC 341), which represents the judicial opinion in this regard, courts would normally refuse to take jurisdiction when the parties had themselves chosen a foreign forum by virtue of an exclusive choice of court agreement, save would it be manifestly contrary to the public policy in India. Towards this end, even though the principles as regards the enforcement of choice of court agreements operate on the same lines as those stipulated for in the HCCA, the author suggests that India's ratification to the latter would indeed bring about enhanced certainty and predictability that Indian Courts will decline jurisdiction when they are not the chosen court. In a related vein, depending on the prospects of the UK leaving the EU – as a result of Brexit, India's ratification to the HCCA will have an additional advantage insofar as it would improve international trade with the EU, which is at present a Contracting State. This is because English Courts seem to be a popular choice of forum in international commercial agreements with an Indian party, as a result of which, the country's ratification to the HCCA will provide certainty (especially for the English Courts, in this case) that Indian Courts will not exercise jurisdiction, when they have not been chosen as a forum, pursuant to an international commercial agreement.

3-AN08-5028

INTERRELATIONSHIP BETWEEN MARINE CARRIER AND INTERNATIONAL SALE CONTRACT: CASE STUDY OF JORDAN

MR. DERAR AL-DABOUBI³

The main purpose of this study is to scrutinising the legal effects of the interrelationship between Marine Carrier and International Sale Contract. This study will clarify the role of the Marine Carrier in determining the time at which the ownership and risk in the sold goods may transfer from a seller to a buyer and further, illuminating liability of Marine Carrier that might be endured in this regard.

The present research will apply a doctrinal method, through which the provisions of CISG (The Convention on Contracts for the International Sale of Goods), Hamburg Rules for Carriage by Sea and the relevant acts of Jordanian law will be analysed and assessed for the purpose of formulating a conclusion, being supported with documents that have been argumentatively tackled, so as to reach an answer to the research's questions. Accordingly, a black letter approach will be employed, where a critical analysis for CISG, Jordanian Law and case law will be carried out through a qualitative method.

This study has found that, in spite of its position as a third party to International Sale Contract, the Marine Carrier performs decisive role in the context of the passage of risk and ownership between contracting parties to international Sale Contract. However, a Marine Carrier might be negatively affected by the liability that could be borne in this respect.

³ Mr. Derar Al-Daboubi, PhD Student, Anglia Ruskin University.

The novelty of this research lies in the fact that the previous studies, which have been dedicated to address the passage of risk and property in international sale contract, have examined the position of the seller in affecting this passage, while this study will discuss the position of the Marine carrier.

The second aspect of novelty consists in the fact the previous studies have examined the Liability of the Marine Carrier for the damage to, loss of the goods and delay in delivery, whereas this study will address the liability that might be endured in the context of the passage of risk and property.

It can be concluded that, neither CISG nor Jordanian Law has illuminated the role of the Marine carrier in affecting a passage of risk and property and also, both legislations did not regulate the liability that may arise in this regard. Accordingly, the study will try to provide sound suggestions through which the shortcoming and lacunas of CISG and Jordanian Law be eliminated.

Key words: CISG, passage of risk, transferring of ownership, liability of Marine Carrier.

4-AN18-5097

JUNKER'S FIVE SCENARIOS TO BREXIT AND THEIR IMPACT ON SOCIAL SECURITY COORDINATION

MRS. ANNA PRZYTULA-PIENIAZEK⁴

Probably the most controversial debate currently being discussed is the method United Kingdom will choose when leaving European Union, subject to negotiations. Discussions are mainly based on the basis of the future of trade between Member States and third countries, which will include Great Britain. However, bearing in mind the number of migrants that travelled to the United Kingdom we should also discuss their position in relation to individuals' needs. Those who chose to work in various Member States are aware that if a problem arises with their health, the government or a relevant institution will be able to help them by for example benefits or retirement. In my view there is a need to discuss current state of the social security coordination that is guaranteed by the European Union and possible future changes. From the practical point of view, migrants need to know what their rights may be in terms of social security after Brexit, depending on the method that will be negotiated by Member States, especially in relation to retirement for which people work most of their lives usually in more than one country.

Currently social security coordination is guarded by principles that ensure the rights of individuals are secured. Different authors provide us with various lists of those principles, however I note that there are six of them: single legislation applicable, aggregation of periods, protection of acquired rights, equal treatment, reasonable expectations and exportability of benefits. Those principles of social security coordination apply to Member States, making sure that those migrating can be ensured of their rights. However when the United Kingdom will leave the European Union those principles will stop operating and then, depending on the negotiated method of leaving the EU, rights of migrants in respect of social security may change.

Through this paper I want to analyse five possible scenarios that J.C. Juncker described in his White Paper on the Future of Europe and apply those possible scenarios to the social security coordination principles. At the end this will allow us to see what method is the most probable, but also which one is the most beneficial for migrating individuals.

⁴ Mrs. Anna Przytula-Pieniazek, PhD Student, University of Gdansk.

5-AN12-4920

IMPACT OF NATIONAL CULTURE ON THE GENDER DIVERSITY OF CORPORATE BOARDS

DR. CATHERINE WHELAN⁵ AND DR. SARAH HUMPHRIES⁶

Gender diversity on corporate boards is believed to enhance the effectiveness of the board and potentially firm performance. Some countries impose quotas for female representation on boards while others promote self-regulation with the goal of voluntarily increasing gender diversity. This study investigates the relationship between national culture and the gender diversity of corporate boards. The sample consists of 175 international companies listed on US stock exchanges. As the US does not currently impose a gender diversity requirement for listed companies, it is anticipated that the board diversity of these companies may be influenced by the country of operation.

The percentage of women on the board was calculated for each of these companies. Scores from Hofstede's cultural dimensions – Power Distance, Individualism, Masculinity, and Uncertainty Avoidance – were gathered for the primary country of operation for each company. After controlling for board size and the presence of a female board chair, the regression results indicate that the percentage of women on boards is negatively related to Power Distance but positively related to Individualism. No significant relationships were found with Masculinity and Uncertainty Avoidance. Countries with high Power Distance scores tend to accept unequal distribution of power in its organizations. It could be argued that in such cultures, women may not have the social capital to earn a place on a corporate board. Consequently, the lack of female representation on corporate boards in high Power Distance cultures may be due to a tolerance of traditional male dominance in business settings. Individualism implies a commitment to the rights of the individual and therefore representation for all. As such, in high Individualism cultures, a board may appear to be more legitimate if it represented the interests of a broader range of individuals which could be achieved through greater female representation on the board.

The results of this study highlight the importance of understanding cultural influences on board diversity. If board efficiency and firm performance are improved with greater female representation on the board, then firms should consider increasing diversity voluntarily rather than waiting for a mandate from the regulators. This may be more acceptable to stakeholders in cultures with higher Power Distance and Individualism traits.

7-AN09-4995

⁵ Dr. Catherine Whelan, Professor, Georgia College & State University.

⁶ Dr. Sarah Humphries, Professor, Georgia College & State University.

THE IMPACT OF RMB DEVALUATION AND CHAFTA ON THE AUSTRALIAN AGRICULTURAL SECTOR

DR. SAM MENG⁷

Using a multi-currency version of the GTAP model, this paper simulates the effects of the Chinese currency devaluation as well as the Australian-China FTA. The simulated macroeconomic results show that a 3% devaluation of Chinese currency can provide a mild improvement to the Chinese economy (0.008% increase in real GDP) and has little overall impact for Australia. The ChAFTA can benefit both Australia and China. The sectoral results are mixed. Most agricultural sectors will benefit from both the ChAFTA and a devaluation of Chinese currency, but some agricultural sectors will be worse off.

8-AN16-5089

PREFERRED HABITAT OR WINDOW DRESSING? EVIDENCE FROM FOREIGN EXCHANGE SWAP MARKET

DR. HAO-CHEN LIU⁸ **DR. MARK WITTE, ASSOCIATE PROFESSOR**

In this paper, we revisit the cause of year-end effect observed in financial market. It has been a debate on what causes the return irregularity around year-end. The cause of the effect has been explained mainly by either window-dressing or preferred habitat. Window-dressing hypothesis argues that the market near the year-end shows a risk-shifting behavior because of disclosure requirement. Portfolio managers would hold low risk assets rather than high risk assets and therefore, the higher return of small stocks in January is observed in the market. Preferred habitat hypothesis focuses on the cash flow needs in the market at the peak of money demand. Under preferred habitat hypothesis, money managers would increase their cash reserve and decrease the investment on money market instruments. Since the needs for cash payment is not necessarily to be on the last day of the year, a decrease in yield should be observed days before the end of the year. Because both window-dressing and preferred habitat behaviors occur around year-end, it is not easy to disentangle these two hypotheses. In this paper, we use a unique dataset in the US dollar (USD) and New Taiwanese dollar (NTD) foreign exchange swap market to investigate the return irregularity around year-end. Foreign exchange swap market is the most traded instrument in the foreign exchange market which is popularly used by banks to fund their liquidity needs. This market has never been examined before due to the lack of public available data. A foreign exchange swap contract involves two currencies and the timing of liquidity needs for each currency can be different. Therefore, we can disentangle these two hypotheses. We study the return irregularity around Chinese New Year and Western New Year. The date of Chinese New Year varies every year based on the lunar calendar while the the date of Western New Year is fixed each year. There is increased liquidity needs for NTD but not USD around Chinese New Year while the needs for NTD and USD both increase around Western New Year. Therefore, by including Chinese New Year in the analysis, we provide further evidence to support the existence of preferred habit in the market.

9-AN05-4685

⁷ Dr. Sam Meng, Senior Research Fellow, University of New England.

⁸ Dr. Hao-Chen Liu, Associate Professor, College of Charleston.

LOSING THE TAG OF 'INDEPENDENT DIRECTOR'- ROLE PLAYED BY NOMINEE DIRECTORS IN DETERMINING FIRM PERFORMANCE

MS. MANJULA SHUKLA⁹

Board of directors are central to the governance of companies. Board independence is seen as a cornerstone of accountability, effective deterrent to fraud, inequality, etc. However, before the enactment of Companies Act, 2013, the provisions related to the inclusion of independent directors in boards of Indian companies were mentioned only under Clause 49 of Listing Agreement. While the Listing Agreement stated that the nominee directors appointed by an institution are deemed to be independent directors, Companies Act, 2013 states that a nominee director cannot be an independent director. Earlier studies done on independent directors have not specifically mentioned whether the nominee directors have been excluded or not. The present study analyses the role of independent directors and nominee directors in determining firm performance. The study has been conducted on the 30 BSE SENSEX companies listed on the Bombay Stock Exchange as on March 31, 2016, for a period of six years from financial year 2011 to financial year 2016. The 30 component companies of SENSEX are some of the largest and most actively traded stocks, and are representative of 12 industrial sectors of the Indian economy. Relevant data on board of directors and the measure of firm performance have been extracted from the annual reports of the companies. Multiple regression analysis has been used to analyze the impact of the independent variables viz. (i) the ratio of independent directors on boards and (ii) ratio of nominee directors on boards of the companies on the dependent variable viz. the Return on Assets. While calculating the ratio of independent directors, the number of nominee directors on boards have been excluded. The normality of the data has been assured and various transformations have been applied as needed to bring normality to the data. Multicollinearity among the independent variable has been checked with the help of Variance Inflation Factor (VIF), and lack of multicollinearity among the independent variables has been found. Various control variables like log of assets, the chairman being executive or non-executive, Government ownership of firms have been used. The results indicate that the ratio of independent directors on boards has a positive influence on the firm performance, though not significant. Whereas, the ratio of nominee directors has a significant negative impact on firm performance. The study also concludes that the financial firms have a significant negative effect on return on assets as compared to non-financial firms. Therefore, the present study helps in estimating the effect of independent directors and nominee directors separately on the measure of firm performance.

10-AN03-4860

GENDER DIFFERENCES IN ENVIRONMENTALLY CONSCIOUS PURCHASING BEHAVIOR OF GENERATION Y THAI CONSUMERS

DR. PATRICIA ARTTACHARIYA¹⁰

Thailand has been hit hard by climate-related disasters over the past decade. The recently published Intergovernmental Panel for Climate Change (IPCC) Report warns that Thailand will suffer increased risks ranging from coastal and river flooding, and heat-related mortality to water and food shortages following draught. The apparent effects of deterioration of the environment can be felt in all aspects of daily lives making it all the more important for every

⁹ Ms. Manjula Shukla, Research Scholar, Banaras Hindu University.

¹⁰ Dr. Patricia Arttachariya, Assistant Professor, Assumption University.

citizen as well as the government to do their part in rejuvenating the ailing ecosystem. One of the ways in which Thais can help mitigate such climate-related calamities is by focusing on environmentally conscious purchasing behavior. Although there have been studies on environmentalism and green purchasing behavior, none, to the author's knowledge, has focused on gender differences in such purchasing behavior in the Thai context. The current study examines gender differences in environmental knowledge, concern, value orientations, media, and interpersonal influence on environmental attitude and environmentally conscious purchasing behavior of Generation Y consumers in Thailand. Willingness to Pay More and Personal Benefit were moderating variables. Generation Y was chosen because they account for nearly a third of Thailand's population with high income and spending potential. They are also at an age where they understand the implications of environmental problems and are future custodians and policy makers of Thailand's environmental management. A sample of 420 respondents (200 male and 220 female) was selected to collect data for the study. Descriptive statistics, Independent t-test and ANOVA were used for the analysis. The findings revealed significant gender differences between respondents' income and education levels and environmentally conscious purchasing behavior. A surprising finding, contrary to many Western studies, was that males were willing to pay more for environmentally friendly products compared to females. However, no significant gender differences were observed in environmental knowledge, concern, value orientations, interpersonal influence, media, environmental attitude, and environmentally conscious purchasing behavior. The study expects to add to the literature on gender differences and environmentalism and also provide marketers and policy makers with better insights into the role of gender in environmentally conscious purchasing behavior in the Thai context.

Key words : environmental consciousness, value orientations, socio-demographic factors, environmental attitude, willingness to pay more.

11-AN14-5094

ENVIRONMENTAL CRISIS AND SUSTAINABLE DEVELOPMENT IN INDIA: SETTING PRIORITIES RIGHT

DR. RASHMIMALA SAHU¹¹

In the present century, environment degradation has become a global phenomenon posing a serious threat to human life on this beautiful planet. According to the World Commission on Environment and Development, the future is to face an ever increasing environmental decay, poverty, hardship and an impending ecological crisis. Sudden and unprecedented natural changes have occurred and continue to occur, which have the potential to upset the whole balance of the Earth's ecosystem. The human species, which once had a role in the environment, has over the years, effectively destroyed it or replaced it and the resultant consequence is global warming and climate change. The last few decades have seen many treaties, conventions, and protocols for the cause of global environmental protection and sustainable development. The whole world is a stakeholder and this raises issues on the role of both the developed and developing countries to set their priorities right and cooperate at the global level to find out alternatives and solutions. Sustainable development offers the greatest promise, but it demands the greatest change in current socio-economic and cultural patterns and the greatest individual sacrifice. India as a leader of the developing countries needs to play a proactive role in constructing a global agreement on climate change and global warming at

¹¹ Dr. Rashmimala Sahu, Assistant Professor, HOD Political Science, Nirmala College.

the International level and frame proper policies of environmental protection and sustainable development at the domestic level. It is high time for India to set its priorities right and look for alternative development models which are morally just, economically viable and environmentally sustainable.

Keywords: Environment, ecosystem, bio-diversity, global warming, sustainable development

12-AN17-5091

ANALYSIS BETWEEN USAGE FACTORS OF SMARTPHONE: FOCUSED ON 2ND ORDER CONFIRMATORY FACTOR ANALYSIS OF INTERACTION

PROF. MINCHEOL KIM¹²

The development of Information and Communication Technology (ICT) has brought about many changes in everyday life, and new service models are emerging in various industries including tourism. Specifically, the use of a variety of smart devices has led to changes in the use of the system, such as selecting travel destinations, collecting information on travel destinations, and making reservations and payments related to travel (Wang et al., 2014). In addition to organizational factors from previous studies, this research model is based on the personal situation of smartphone service. Thus, this study proposes a research framework on flow, attitude, and usage intention with interactivity that includes the concept of control, 2-way communication and synchronicity (Okazaki & Mendez, 2013). In order to show the significant relation among the usage factor, this study utilized PLS-SEM (Partial Least Squares-Structural Equation Modeling) (Hair et al., 2012). This study conducted an analysis after collecting data through survey of final 238 persons among smartphone users of South Korea in 2016. This study performed the analysis with Smartpls version 3.0 software and estimated through the bootstrap re-sampling method to measure the t-value of each path (Ringle et al., 2012). The results of analysis showed significantly that the Interaction of smartphone usage affects flow, and the flow affects continuous usage intention through attitude with the interactivity factor including all factors as control, 2-way communication and synchronicity using 2nd order confirmatory factor analysis. Through this study, it can be used as basic data related to the study of various factors that may affect the attitude of users in the future development of smartphone system.

13-AN11-4905

ROLES OF URBAN PERIODIC MARKETS IN RELATION TO DRIVE LOCAL ECONOMY: A CASE STUDY OF MERCHANTS' PERSPECTIVE IN BANGKOK METROPOLIS

DR. PAKORN MEKSANGSOUY¹³

This research aims to reveal how periodic markets in the Bangkok Metropolis promote local economy as well as local entrepreneurs. The periodic market at Srinakharinwirot University (SWU) on Asokemontri Road, located in a Central Business District (CBD) in Bangkok, was chosen as a case study. Questionnaire administration was the main technique in this research. The questionnaire was conducted by a face-to-face interview with 169 respondents, who were running their business at the SWU periodic market. Results from this research can be discussed

¹² Prof. Mincheol Kim, Professor, Jeju National University.

¹³ Dr. Pakorn Meksangsouy, Lecturer, Srinakharinwirot University.

in three aspects. First, the operational pattern in the SWU periodic market brings about an economic benefit not only for merchants, but also for staffs who were working as store assistants or labors in the market. Second, key success for an urban periodic market is a good location. The good location of the market place brings about a great number of consumers. As a result, a lot of entrepreneurs desire to operate the business in the market as well. Third, the impact of the periodic market is discussed in this research in order to seek a plan to solve problems stemmed from the market.

14-AN15-4910

RETAILER'S PERCEPTION ABOUT NON-CARBONATED DRINKS IN SELECTED CITIES OF GUJARAT

MR. CHINTAN KOTHARI¹⁴

Food and Beverage sub-segment is the fourth largest sector of Indian economy with a size of about Rs 500 billion. Growing awareness easier access and changing lifestyle have been the key growth. The food sector is the leading segment accounting for 43 percent of an overall market FMCG sector generally includes a wide range of frequently purchased products such as soft drinks, fruits, confectionery, vegetables, soaps, dairy products. Fmcg products usually have low margin but large volume. Food and beverage are largest segment on consumption basket. Food and beverage take lion's share of a wallet. All India average is 51% it is 45% in urban area and 55% in rural area. . In Indian beverage market, the fruitage -based beverages category is one of the fastest growing categories. This research attempts to understand retailers perception about various Non-carbonated soft-drinks in India. Primary survey of 210 Retailers was done in Three cities of 9 different Brands i.e Ahmedabad, Surat and Baroda showing pricing point of different brands and different packaging with different retailers benefits and schemes provided. The research also shows consumer choice of product based on Demographic and Geographic location.

The research concludes that in different cities of Gujarat people preferred different drinks due to the availability, pricing factor, schemes provided. People preferred individual (small) pack which is convenient, and easy to carry and consume of Frooti 160 ml drink with Maaza selling the most in 650 ml and Real juice sold most in the 1L category. Different category of these juices had different buyers

15-AN20-4896

REVIEW OF INDONESIA'S DRAFT NEW MODEL OF BILATERAL INVESTMENT TREATY: TOWARDS ECONOMIC NATIONALISM AND PROTECTIONISM POLICY?

DR. FIFI JUNITA¹⁵

Imbalance protection of private and public interests under the existing Bilateral Investment Treaty (BIT) has led to the global backlash against International Investment Agreements (IIAs) globally. This situation has been marked by the proliferation of reform proposal for the reconceptualization of IIAs and ISDS (Investor State Dispute Settlement) globally, including in Indonesia. To date, Indonesia has terminated around 19 BITs and reviewed 60 of its BITs with other jurisdictions. The increase of BIT claims against Indonesia challenging diverse

¹⁴ Mr. Chintan Kothari, Student, Pandit Deendayal Petroleum University.

¹⁵ Dr. Fifi Junita, Associate Professor, University of Airlangga.

regulatory measures has led to the adoption of a more protectionist new draft model of BITs. This paper will review the new draft model of Indonesia's BITs. It is argued that the new draft model of Indonesia's BIT tends to shift from liberalism regime to a more protectionist and nationalist policy. The protection of national interests has become the prime objective in the new draft model of Indonesia's BIT. This situation exemplifies an ambivalence approach to investment liberalism that is accommodated in ACIA (Asian Comprehensive Investment Agreement) and AEC (Asian Economic Community) in ASEAN region. This paper also recommends the need to adopt a proportional protection between foreign investors and the host state in order to achieve justice and fairness in FDI (Foreign Direct Investment).

16-AN06-297

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