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Settlement of commercial disputes: draft UNCITRAL rules on transparency in treaty-based investor-State arbitration

Compilation of comments by Governments

Corrigendum

II. Comments received from Governments

Japan

Paragraph 2 should read:

2. Footnote under draft article 2: Limiting the qualification of the parties to the treaties that these Rules will apply to would exclude the treaties to which such territories as Hong Kong and Macao are parties from the scope of these Rules. In order to clarify the scope of the treaties that these Rules will apply to, it is sufficient to mention “international agreement” with a reference to examples of its forms and the nature of its provisions. Japan understands the following revised footnote is clear enough to include any international agreements to which non-State parties such as regional economic integration organizations, Hong Kong or Macao.

* For the purpose of the Rules on Transparency, a “treaty providing for the protection of investments or investors” shall be understood broadly as encompassing any international agreement, including free trade agreements, economic integration agreements, trade and investment framework or cooperation agreements, and bilateral and multilateral investment treaties, so long as it contains provisions on the protection of investments or investors and a right for investors to resort to arbitration against Parties to the treaty.

