India cuts arbitration time for foreign investors in UAE pact

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India has reduced the time period for foreign investors to seek international arbitration from five years to three years as part of the recently signed investment pact with the United Arab Emirates (UAE), a departure from its model Bilateral Investment Treaty (BIT).

Under the Investor-State Dispute Settlement (ISDS) mechanism, if the Indian judicial system is unable to resolve a dispute within this shortened period, investors can resort to international arbitration.

The investment pact, signed on February 13 in Abu Dhabi, came into force on August 31, replacing the previous pact.

India's new deal includes shares and bonds as protected investments, unlike the model BIT, which gives protection to foreign direct investment (FDI) and excludes portfolio investments such as stocks and bonds.

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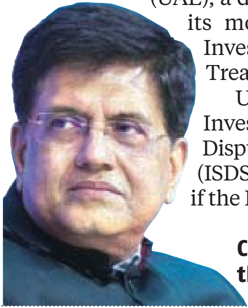

Commerce and Industry Minister Piyush Goyal said the pact would increase investor confidence

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The BIT between India and the UAE will boost investor confidence, provide a predictable and stable tax regime, and help investors get recourse in case they feel they didn't get a fair deal, Union Commerce and Industry Minister Piyush Goyal said on Monday.

"In the various issues that we discussed today (Monday), some of our India companies believe there are some issues with the UAE and likewise some UAE companies may have with India. BIT will help provide a framework, by which both sides can resolve these issues," Goyal told reporters after co-chairing the 12th meeting of the India-UAE high-level joint task force on investments, along with Sheikh Hamed bin Zayed Al Nahyan, managing director of Abu Dhabi Investment Authority (ADIA).

However, experts believe reducing the time period may weaken India's ability to resolve disputes internally and increase chances for international arbitration.

According to Delhi-based think-tank Global Trade Research Initiative (GTRI), while the BIT may attract more UAE investment, it also raises the risk of higher arbitration claims against India. Besides, India will soon be approached by other countries to sign BITs on similar liberal terms as it is negotiating BITs with countries such as the United Kingdom (UK) and trade blocs such as the European Union.

The GTRI said the inclusion of shares and bonds as protected investments broadens the treaty's scope, allowing investors with passive financial holdings to access the ISDS mechanism. "This shift increases India's exposure to disputes over financial instruments, even those that don't contribute significantly to economic development, moving away from Model BIT's focus on long-term investments," it said in a report.

Making an official announcement on the pact, the Ministry of Finance on Monday said India-UAE BIT was expected to boost confidence of the investors by assuring minimum standard of treatment and non-discrimination while providing an 'independent forum' for dispute settlement by arbitration.

"However, while providing investor and investment protection, balance has been maintained with regard to the state's right to regulate and thereby provides adequate policy space," it said.

With 3 per cent of total FDI inflows, the UAE is India's seventh-largest source of foreign investment, contributing around $19 billion between April 2000 and June 2024. India, in turn, has made 5 per cent of its total overseas investments in the UAE, amounting to $15.26 billion from April 2000 to August 2024.

BITs enable reciprocal promotion and protection of investments–protection to foreign investors in India and Indian investors in the foreign country. Such pacts boost investor confidence and aim to spur foreign investments.