Comments on the Address by Dr. Turner

Akira Kotera
RIETI, the University of Tokyo
Main Points

1. US/Euro-centric phenomena
2. Essence of investment treaty arbitration – change of functions of BITs
3. Who are the true profit-takers? – giant enterprises
US/Euro-Centric Phenomena

• Vast accumulation of knowledge and experience in the US and Europe
• Main host states: developing states such as Argentina, Mexico, Philippines
• Last year RIETI organized Project on Legal Protection for Overseas Investments
Essence of Investment Treaty Arbitration

• Change of BIT functions
• Substantial norm aspect:
  Expropriation: what is indirect expropriation? Fair and equitable treatment, MFN
• Implementation aspect:
  Between governments → investor vs. host state
Who are the True Profit-takers?

- **Risk-hedging Aspect** - compare with investment insurance
- **Small and Medium Projects** - investment insurance is reasonable
- **Big Projects** such as development of natural resources, management of Infrastructure - BITs are efficient tool of risk-hedging. cf. strategy of oil majors