Since the time that the Calvo doctrine held sway, Latin America’s ambivalent relationship to investor-State dispute settlement has not ceased to elicit discussions and debates and generate a string of scholarly writings. The region’s multiple responses to investment arbitrations, termination of a number of investment treaties and, in the case of three countries, denunciation of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) have continued to fuel the
debate. And the latter is on the point of taking yet a new turn. In March 2015, Brazil, the region’s biggest economy, started concluding its first cooperation and facilitation investment agreements (CFIAs), investment treaties of a sui generis kind that focus on investment facilitation and dispute prevention and bar access to investor-State dispute settlement. In parallel, a High Level Experts Working Group on the Settlement of Investment Disputes of the Union of South American Nations (UNASUR) has been negotiating the creation of Latin America’s own dispute resolution centre for investment disputes. The Centre for the Settlement of Investment Disputes (Centro de solución de controversias en materia de inversiones) brings together the twelve UNASUR member states (Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay, and Venezuela) and the working group aspires to have it operational in the very near future.

These and other innovative features of the Latin American take on investment arbitration raise numerous questions and challenges for the region but also for the entire system of international investment protections. This Special Issue deals with some innovative aspects of the current and future Latin American approaches to the reform of investment dispute settlement, as well as with various themes relating to the creation of the UNASUR Centre. It is composed of eight selected articles that have been authored by scholars and practitioners representing various Latin American countries (Argentina, Chile, Colombia, Venezuela), European countries (France, Greece, Italy, Spain, Switzerland) and the United States.

The Special Issue opens with an article by Katia Fach Gómez and Catharine Titi exploring recent institutional developments in Latin America. The article focuses among others on the elaboration of Brazil’s cooperation and facilitation investment agreements, the continuing negotiations on the creation of the regional dispute settlement Centre under the aegis of UNASUR, amendments to national arbitration laws for disputes involving the State and other regional investment policy initiatives. The article highlights such developments in light of the broad spectrum of local approaches in order to interpret Latin American countries’ position in the existing system of investor-State dispute settlement (ISDS) and reveal the role that the sub-continent can play in the future design of ISDS.

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