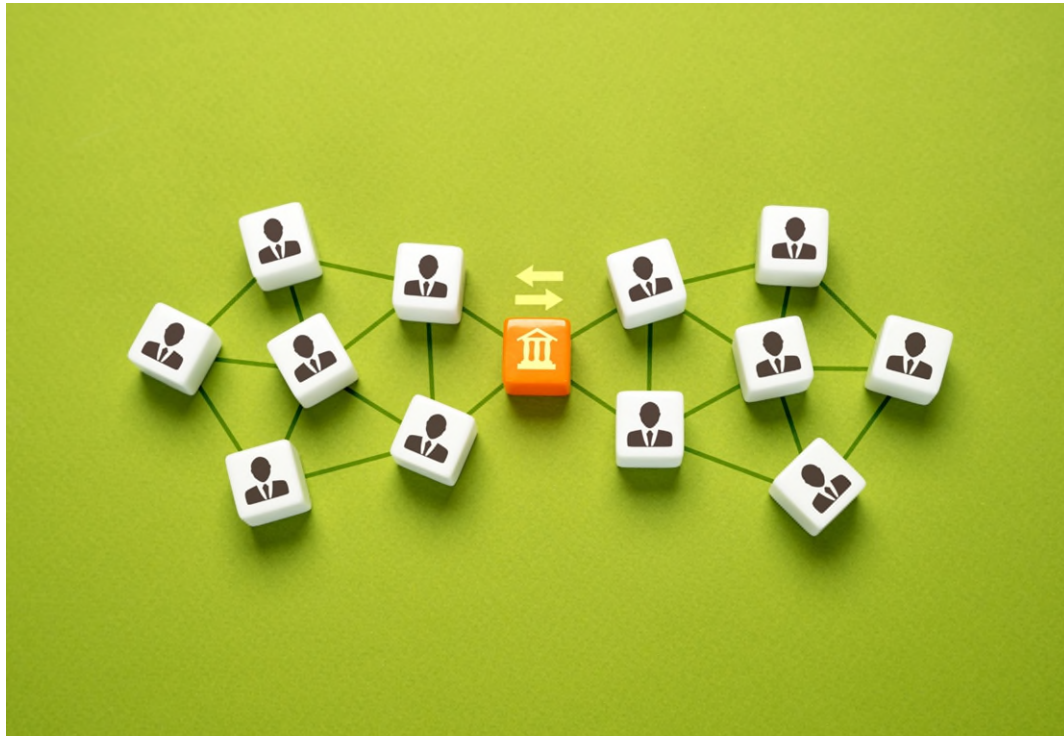


R&T @ Singapore Convention Week – The New Era of ISDS

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Introduction

Investor-State dispute settlement ("ISDS") is not in crisis – it's in the middle of its most significant transformation in decades. Singapore has [bid to host the Multilateral Investment Tribunal \("MIT"\)](#); the International Centre for Settlement of Investment Disputes ("ICSID") has opened its first overseas office here; and the United Nations Commission on International Trade Law ("UNCITRAL") has finalised the Advisory Centre Statute and adopted new Supplementary Provisions on ISDS proceedings.

Against the backdrop of this momentum for reform, the European Chinese Arbitrators Association ("ECAA"), with the support of the International Federation for Investment Law and Arbitration, convened a panel on 27 August 2026 at Rajah & Tann Singapore with Partner (Foreign Lawyer) [Dr Vanina Sucharitkul, FCIArb](#) to explore what practitioners, investors and State entities can look forward to in the new era of ISDS. The panel was co-moderated by Colin Seow and Dr Alice Meissner, with introductory remarks by ECAA Board member Julie Raneda of Schellenberg Wittmer.

A System Being Strengthened, Not Abandoned

Lucas Bastin KC set the tone early. What is happening to ISDS, he argued, is not a backlash but a recalibration, and a system that is being actively improved is one that has earned enough legitimacy to be worth improving. The concept of the capital-exporting nation has fundamentally shifted – major emerging economies that were once primarily capital importers are now negotiating modern bilateral investment treaties ("BITs") as significant outbound investors, reshaping the treaty landscape in the process. ISDS has become not just a tool for enforcing rules, but a vehicle for projecting

norms of international law. The numbers back it up: treaty-making increase has increased, with States negotiating more sophisticated agreements than ever.

Regional Reform in Motion

Dr José Angel Rueda García brought a Latin American perspective to the panel. Across the region, States that once viewed ISDS with suspicion are re-engaging on their own terms. Ecuador has rejoined ICSID after its earlier withdrawal, and Honduras ratified the ICSID Convention in 2026. Colombia continues to negotiate modern investment treaties that preserve ISDS. These developments suggest that Latin American States are not retreating from investor dispute resolution so much as finding the terms on which they are prepared to accept it.

The Multilateral Investment Tribunal: Promise and Political Will

Dr Vanina Sucharitkul, FCI Arb (Rajah & Tann Singapore) drew on the ancient wisdom of Mengzi — 鱼与熊掌不可兼得 ("you cannot have both fish and bear's paw at the same time") to frame a fundamental tension at the heart of the MIT debate. The EU's proposed model is closer to a judicial settlement mechanism in the technical sense, departing significantly from the defining features of arbitration, including party autonomy to appoint adjudicators, procedural flexibility, and the finality of awards without appeal. Yet the model seeks to label its decisions as arbitral awards enforceable under the ICSID Convention or the New York Convention, in order to benefit from the robust enforcement regimes those instruments provide. Questions around representation of emerging economies and enforcement in respect of parties that have not contracted into the MIT Statute remain unanswered.

These design tensions sit alongside a deeper question of political will. The EU has been the primary driver of the investment court model, yet several of its own investment agreements containing investment court provisions remain pending ratification by all EU Member States including the Comprehensive Economic and Trade Agreement with Canada, the EU-Vietnam Investment Protection Agreement of 2019, and the EU-Singapore Investment Protection Agreement of 2018. Meanwhile, incremental reforms are already making a tangible difference: the Code of Conduct for Arbitrators, the Advisory Centre Statute, ICSID's efficiency improvements, and the draft statutes now on UNCITRAL Working Group III's table represent real and concrete progress. Singapore's bid, backed by its offer to fund participation assistance for developing and least-developed countries, makes it a natural home for the next chapter of ISDS reform.

Prevention, Mediation, and the Asian Opportunity

Dr Fan Yang shifted the conversation toward prevention and the growing case for mediation. She highlighted South Korea's Foreign Investment Ombudsman system, through which investors can raise grievances before they escalate into treaty claims, a model especially relevant in ASEAN where long-term relationships define the investor-State dynamic. The UNCITRAL Toolkit on Prevention and Mitigation now gives this approach institutional backing. Dr Fan Yang also drew attention to the International Organization for Mediation, established in Hong Kong in May 2025 as the world's first intergovernmental organisation dedicated exclusively to international mediation, with a mandate that extends to investor-State disputes.

Other panellists noted the practical challenges specific to investor-State mediation. Unlike commercial disputes between private parties, investor-State settlements are subject to significant public scrutiny, and any compromise reached by a State may be perceived as conceding public interests. This accountability dimension can make it genuinely difficult for State representatives to reach and sustain a mediated settlement, even where both parties might prefer it in principle.

Takeaways for Investors and Practitioners

The panel closed with a clear sense that reform momentum in ISDS is real and accelerating, though panellists questioned whether the measures currently on the table would translate into more satisfactory outcomes for end users.

A recurring observation was that many of the system's shortcomings are substantive rather than procedural, rooted in vague and outdated treaty language that only States can address at the negotiating table. No structural reform, however well-designed, can fully bridge that gap. Singapore's position at the centre of this evolution, anchored by ICSID's first overseas office, the MIT bid, and a vibrant dispute resolution ecosystem, makes it a natural home for these conversations. But the real work, as the afternoon made clear, lies in the treaties themselves.

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