If Not Investor-State Treaty Arbitration, Then What? Can Investment Contracts Replace Investment Treaties Including Bilateral Investment Treaties and Free Trade Agreements with Investment Chapters? *

Summary

*** Please note that this summary of the panel was AI-generated and therefore has not been fully vetted for accuracy.**

The fifth annual Washington Arbitration Week (WAW) commenced with a focus on the evolving landscape of investor-state arbitration, particularly the question of whether investment contracts could serve as substitutes for investment treaties. The session was moderated by Josh Shiff, an experienced practitioner in international arbitration, who introduced a panel of experts including Jim Mendenhall, Luce Guichard, Jonathan Aldridge, and Michael Rodriguez Martinez.

Key themes included the ongoing scrutiny of the investor-state dispute settlement (ISDS) system, with criticisms suggesting it favors investors over state regulatory autonomy. The panel discussed the differences between investment contracts—direct agreements between investors and states—and investment treaties, which are agreements between states that provide a framework for protecting investments. They explored the potential for investment contracts to replace treaties, noting that contracts typically protect only the parties involved and may not cover broader issues addressed by treaties.

The discussion also touched upon the procedural and substantive differences between contracts and treaties, such as the scope of claims and the applicable law. Panelists highlighted the complexities arising when investment contracts and treaties overlap, particularly in sectors like telecommunications and natural resources.

The conversation concluded with reflections on the future of investment arbitration, considering alternatives such as mediation and the potential impact of recent developments like the Singapore Convention on Mediation. The panel emphasized the importance of maintaining a robust legal framework to ensure investor protections while navigating the evolving landscape of international arbitration. Participants expressed gratitude for the engaging discussion, acknowledging the need for continued exploration of these critical issues in the field of arbitration.

Authors

Ucheora Onwuamaegbu, Michael Rodriguez, Jonathan Ulrich, James Mendenhall

Topics

WAW

Category

WAW

Full Transcript

00:00:28
2024, welcome everyone to Washington

00:00:34
arbitration week if it is

00:00:36
our fifth annual conference and

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will be going on all

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this week till Friday and

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we had a response from

00:00:48
the law firms and practitioners

00:00:51
here in Washington, but as

00:00:52
we have over the whole

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history of Washington arbitration, we've

00:00:57
always made efforts to make

00:01:00
our sessions virtual and available

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to the general public and

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to the world. And as

00:01:06
a result, we have folks

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watching from every corner of

00:01:11
the world and supporting and

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taking part in the conference.

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So, We have many of

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these conferences put on by

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various cities, but we like

00:01:23
to think that not only

00:01:24
are we showing the best

00:01:27
of Washington and arbitration Community

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but we are showing this

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to the world as well

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as sharing what we have

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to offer. So thank you

00:01:37
to everyone who's dialed in

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virtually and thank you to

00:01:41
the folks here. Today, we're

00:01:45
going to start off with

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a really fantastic session. It

00:01:49
has a very long title

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but it does. The short

00:01:52
title is, if not investor-state

00:01:54
arbitration, then what then what

00:01:57
is going to be. I

00:01:59
think it's a big part

00:01:59
of the discussion here today,

00:02:01
and of course, this is

00:02:03
a very topical issue in

00:02:06
the international arbitration community that

00:02:08
reforms have been attempted in

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our ongoing in is dies,

00:02:14
and there is a certain

00:02:17
level of critique. That has

00:02:19
existed over the whole life

00:02:21
by SDS, which opportunity and

00:02:25
the states who govern these

00:02:26
these treaties with a r.

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And I'm looking forward to

00:02:32
hearing from our panel today.

00:02:33
We were being moderated by

00:02:36
a very able moderator. This

00:02:39
is Josh shifts and prices

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of permanent here at Wylie.

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Ryan. Josh has extensive experience

00:02:47
in litigation and international arbitration

00:02:50
involving a broad. Range of

00:02:52
Industries, including energy sources, cryptocurrency,

00:02:56
and financial services. He also

00:02:59
advises companies on National Security

00:03:01
Law, Public international law and

00:03:03
transnational, litigation in US courts.

00:03:06
I just teaches International arbitration.

00:03:08
As an adjunct, professor University

00:03:10
of Virginia School of Law,

00:03:12
and is a fellow of

00:03:13
the chartered Institute of arbitrators

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and a fin rot arbitrator.

00:03:18
Before joining Wiley Josh was

00:03:21
at the office of legal

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adviser at the US Department

00:03:23
of State. So Josh has

00:03:25
a great experience in this

00:03:26
area and I know will

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moderate a fantastic now, so

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I'll have no, I'll just

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pass it over to Josh

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and that they do it.

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Thanks for lunch. Thanks a

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lot of cian and welcome.

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Everyone is going to see

00:03:41
you all this morning. It

00:03:43
is my distinct pleasure to

00:03:45
introduce you to today panel

00:03:47
to start off, Washington. Arbitration

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panel is the perfect way

00:03:52
to start the week because

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it really is at the

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intersection of law policy in

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the global economic order. A

00:04:02
mouthful. It is, if not

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investor-state arbitration than what an

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investment contracts, replace investment treaties,

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including bilateral, free trade agreements

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with investment chapters. That is

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perhaps a lot in good

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hands panel to discuss this.

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I will introduce them and

00:04:29
then give a very brief

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introduction of this topic and

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then we will proceed with

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a number of different angles

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in which investment contracts and

00:04:37
investment treaties. My first injection

00:04:41
for our panel. I have

00:04:43
some, I left Jim Mendenhall,

00:04:45
who is a partner in

00:04:47
the international arbitration and Trey

00:04:49
group of sidley, Austin, while

00:04:50
he has handled some of

00:04:53
the largest and highest-profile arbitration

00:04:56
cases over the last 10

00:04:57
years. Prior to joining sidley,

00:04:59
Austin gym, with the general

00:05:01
counsel of the office of

00:05:02
the US trade representative and

00:05:04
the assistant ustr for services

00:05:07
investment and an intellectual property.

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He led the ustr legal

00:05:12
team in connection with the

00:05:13
development of the 2004 us

00:05:15
model B. I T and

00:05:17
the investment chapters of multiple

00:05:19
duet free trade agreements. End

00:05:23
of the table. I have

00:05:24
Gucci Mane, who, who is

00:05:27
an international attorney at Aaron?

00:05:29
Fox in Washington, d.c. his

00:05:31
current practice focuses on International

00:05:33
Investment, arbitration commercial disputes and

00:05:35
advisory services. For more than

00:05:38
a decade. Luce was senior

00:05:40
counsel at the world bank's

00:05:41
International Centre for development of

00:05:43
investment disputes in Washington. D.c.,

00:05:46
he was involved as Secretary

00:05:49
of your team leader in

00:05:49
over 70 cases at various

00:05:51
economic sectors and was a

00:05:53
core member of the 2016

00:05:55
rules team. We also have

00:06:00
Jonathan Aldridge who is counsel

00:06:02
in the international arbitration practice

00:06:04
of a global Law Firm.

00:06:05
Paul Hastings based in Washington,

00:06:06
d.c., Jonathan has nearly two

00:06:09
decades of experience advising multi-national

00:06:11
corporations, International organizations, and sovereigns

00:06:15
in high-stakes crossword. He works

00:06:18
with client, from a wide

00:06:19
range of Industries and his

00:06:20
International practice, band's best music

00:06:22
radio station, Commercial arbitration, and

00:06:25
US trial, and appellate litigation.

00:06:27
And last but not least,

00:06:29
we have Michael Rodriguez Martinez,

00:06:32
who is an associate of

00:06:33
Hughes Hubbard & Reed, is

00:06:35
a member of the firm's

00:06:36
arbitration Practice Group. And he

00:06:37
has spent almost 10 years

00:06:39
handling disputes in the international

00:06:40
spear like a lawsuit Clerk

00:06:42
of the United States court

00:06:43
of appeals for the eleventh

00:06:44
circuit and outside of Private,

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Practice is Michael, is a

00:06:47
professor at Georgetown University Law,

00:06:49
Center teaching, advocacy, and international

00:06:52
arbitration. Do you heard a

00:06:55
lot about investment arbitration and

00:06:57
Commercial arbitration in contracts, cross-border

00:06:59
disputes among the experience of

00:07:02
this group of Panama. So

00:07:04
those are the issues we're

00:07:06
going to unpack, but just

00:07:08
to give a very quick

00:07:09
introduction. Before we start moving

00:07:10
through the we're talking about

00:07:12
two different types of legal

00:07:14
instruments. Today, first is an

00:07:17
investment contract. That's a contract

00:07:20
between an investor and a

00:07:22
state is a direct contract

00:07:24
that the party's going to

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go. She ate, they conclude

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specific Provisions. Governing investment dispute.

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Resolution the second type of

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legal instrument is an investment

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treaty that is an agreement

00:07:37
between two states. That one

00:07:39
of Esther is a party

00:07:41
to that agreement and it

00:07:43
provides consistent many. But many

00:07:45
of us country by consent

00:07:47
or arbitration of spews, and

00:07:50
provide a framework, governing the

00:07:53
Investments. Attacks against expropriation or

00:07:56
discriminatory treatment and a lag.

00:08:00
Do as you will hear

00:08:01
more about and as many

00:08:03
of you probably know the

00:08:05
system of investment arbitration has

00:08:07
been under scrutiny in recent

00:08:08
years, critics argue, sometimes that

00:08:12
these trees favor investors at

00:08:15
the expense of state regulatory

00:08:17
altonomy and that alternative framework

00:08:20
should be explored. So that

00:08:23
brings us to our topic.

00:08:26
Can investment contracts. Be a

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substitute. We're going to approach

00:08:34
this from four different question.

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For the first is hand.

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The contract accomplish the same

00:08:40
objectives as Investments 32nd. At

00:08:45
a more technical legal level

00:08:46
how are these contracts different

00:08:48
from treaties such as back

00:08:50
to the Forum for dispute

00:08:52
resolution in the applicable law.

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Third what happens when investment

00:08:57
contracts and investment treaties overlap

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in their coverage at 4?

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What are other options for

00:09:04
addressing investor-state dispute? We're going

00:09:08
to tackle those questions one

00:09:09
by one. We will have

00:09:11
each panelist get an overview

00:09:14
of the issue, followed by

00:09:16
some discussion among the panel,

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we welcome questions during that

00:09:20
time or the end. So

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please write down notes, send

00:09:23
it in your questions and

00:09:25
we look forward to a

00:09:26
robust discussion. They kick things

00:09:29
off. We are going to

00:09:31
start with Jim Mendenhall who

00:09:33
will tell us more about

00:09:34
the context of this investment

00:09:36
contracts verses about Ministries issue

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over to you Jen. Thank

00:09:43
you. So I need my

00:09:44
my job is a little

00:09:45
tables that I can get

00:09:46
her to and set it

00:09:47
set up contacts is just

00:09:48
as a job said, I

00:09:49
don't know which is what

00:09:55
else would have been happening

00:09:56
and I have invested a

00:09:57
total amount of the last

00:09:59
time when you hear what

00:10:00
I said with anybody, that

00:10:07
is ESPN as led to

00:10:19
that, how come you had

00:10:21
an attitude itself and would

00:10:23
have resulted in case is

00:10:24
going to be out of

00:10:25
date and time for the

00:10:28
ocean, about as deep as

00:10:33
the number of cases, has

00:10:35
increased dramatically over the years,

00:10:37
really start around for me.

00:10:38
You had a new and

00:10:42
it is Ways of using

00:10:43
ists to challenge. Only Direct

00:10:45
Express creation. An employee, instead

00:10:48
of regular, use a little

00:10:51
bit of procreation and swallowed

00:10:57
us whole area of the

00:10:58
National Economic relations team originally

00:11:08
had the bat and other

00:11:19
issues. And what do I

00:11:22
have today? Really is a

00:11:24
coalition of the left and

00:11:26
right, and I both have

00:11:28
serious concerns about the citizens

00:11:30
on the right. You had

00:11:31
a pretty certain that I

00:11:33
Love You by former ustr

00:11:35
lighthiser who believes that is

00:11:38
BS. Dish and levels to

00:11:44
Broad & Porter. Jobs, from

00:11:54
the United States are the

00:11:55
criticisms of the last dealing

00:11:56
with concerns about the right

00:11:59
to regulate environmental issues. And

00:12:01
the light, the result has

00:12:04
been to termination of the

00:12:05
Road by 9:00 reminder. Al

00:12:10
nation was most of the

00:12:12
Busch Gardens in the last

00:12:13
out of low gear in

00:12:15
the cottage industry in General

00:12:21
Lee for basket. So the

00:12:23
first is I'm reform of

00:12:25
the substance of obligation clarifying,

00:12:29
narrowing specifying in Greater detail

00:12:33
certain obligations. Believe the things

00:12:36
in life are not compulsory

00:12:37
been using this in the

00:12:38
seat of you and you

00:12:41
seen South Carolina Weigh Station,

00:12:44
Norfolk museums, or procedural. And

00:12:52
it said, I have been

00:12:53
a proposed or new rules

00:12:57
of transparency or the world

00:12:59
is going on. In in

00:13:00
the morning room, 3 related

00:13:02
to process services in some

00:13:08
cases that you deal with

00:13:09
a little bit of any

00:13:10
criticisms against the is DSS

00:13:12
those who are trying to

00:13:20
save it and they're trying

00:13:22
to save it with process.

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It's a real classic government

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respond to me to set

00:13:26
up into the criticism with

00:13:27
process and said he want

00:13:29
his mission. And that was

00:13:30
it. I would answer that

00:13:33
or two more categories, one

00:13:36
of the bunch of things

00:13:36
to do during the first

00:13:39
of those is the is

00:13:40
the arbitrator to the self-help

00:13:42
mechanism. were you seen a

00:13:44
number of high-profile arbitrators is

00:13:48
fine but then they go

00:13:49
one step further and they

00:13:50
say we need to take

00:13:51
matters into our own hands

00:13:52
and decide cases and ways

00:13:54
to go get on the

00:13:55
four corners of the tree

00:13:56
in order to quote, unquote

00:13:57
wish I actually got a

00:14:02
Job Corps in the title

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at today, which is this

00:14:15
contract days mechanism, which ended

00:14:19
in in one census is

00:14:21
waving the white flag on

00:14:22
future investment treaties. It's basically

00:14:24
a sentence that is why

00:14:26
we may not have do

00:14:28
my lateral investment treaty. We

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need something else. And we'll,

00:14:33
we'll go with the contact

00:14:34
solution and had and try

00:14:36
to come over there. And

00:14:37
that is, what about Investors,

00:14:38
tend to go, she ate

00:14:39
some of these passions with

00:14:41
a run now, Kansai. Ben

00:14:52
system replaced, bilateral investment treaties,

00:14:54
invest Chatters, Prive. Bring obviously

00:14:58
the answer to that is

00:14:58
no, right? Which is not

00:15:02
mean that as a criticism.

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But they drugged answer the

00:15:05
question just now and it'll

00:15:07
give you some two main

00:15:08
reasons for that. One is

00:15:10
only protects parties parties to

00:15:14
a contract. There are many

00:15:16
that you cases that are

00:15:17
being brought under investment treaties

00:15:19
that have nothing to do

00:15:20
with government contracts, just made

00:15:22
me not being a drunk,

00:15:23
not an appropriate proxy measurement

00:15:26
to the thought of how

00:15:26
many days might be. But

00:15:28
you know, if you look

00:15:29
at umbrella Klaus finds it's

00:15:30
only been about 16% of

00:15:32
all, I don't know. Extremely.

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Half of those again other

00:15:41
than sub-Saharan African countries on

00:15:43
the back of that at

00:15:44
at the end. So I

00:15:47
called the one in contractual

00:16:04
arrangements. Are I won the

00:16:16
second about allegations? Are you

00:16:18
truly trying to replicate something

00:16:20
to my obligation in a

00:16:21
bottle out of the way?

00:16:22
I've been treating a contract

00:16:23
and it says you can't

00:16:25
write so General's. Termination Provisions,

00:16:28
criminal justice store, Prius Talisman

00:16:30
protection from those are not

00:16:37
things that you can really

00:16:38
in a bed. National provision.

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Is there some talk about

00:16:42
turning a t, t into

00:16:44
a contractual Duty into a

00:16:47
stabilization laws may be but

00:16:49
I think that's probably why

00:16:55
this is so not only

00:17:07
a great restaurant location wish.

00:17:17
So I'm slightly over time.

00:17:30
So I got three short

00:17:31
questions is a better than

00:17:32
nothing. Yes. Is it a

00:17:34
replacement? No, will attend down

00:17:37
the political discontent. Maybe I'm

00:17:41
better than to Simply replicate.

00:17:43
What is in the current

00:17:44
respiratory system? Which I escaped?

00:17:47
Is it in the past?

00:17:48
You seen Aaron. That the

00:17:53
number of cases in the

00:17:54
number of Geico claims. Are

00:17:59
you have a clear answers

00:18:01
to the question that you

00:18:02
don't love you? Put it

00:18:04
to the panel though. I

00:18:06
think in a sense these

00:18:08
are as I said in

00:18:09
the beginning different types of

00:18:11
illegal in Minnesota did not

00:18:12
going to get her a

00:18:13
replacement but stepped into the

00:18:21
potential oil or werewolves exist

00:18:25
or any other Pasta Palace.

00:18:30
so, Alfred. First thing is

00:18:36
I heard everything. Looks so

00:18:37
that's, that's SK but I

00:18:40
didn't. The purpose of this

00:18:44
for a strategy to improve

00:18:49
or modified I should have

00:18:54
laid hamburger place three days

00:18:57
already but I think it's

00:19:00
just an excuse to just

00:19:04
now and use recourse to

00:19:07
contract claims as feeders better

00:19:14
than protection. For the permitting

00:19:16
of the reasons I have

00:19:17
mentioned, it actually can't step

00:19:20
into the void and any

00:19:25
way and we're playing crying

00:19:27
eyes. At that time, it

00:19:39
was mentioned that the contract

00:19:42
to the parties to the.

00:19:45
Yeah. It's also the fact

00:19:48
that out of all the

00:19:54
decisions That's probably a good

00:20:00
segue to the next point

00:20:04
of discussion here, which is

00:20:05
what are some of these

00:20:06
differences level. And my computer

00:20:12
doesn't have a cloud If

00:20:14
they saw us as we

00:20:26
all know, the rice and

00:20:28
the consent to arbitrate come

00:20:29
from International Business Degree. And

00:20:31
so, the best for the

00:20:32
bride's exists through that treaty

00:20:34
or as an arbitration, the

00:20:36
rights and consent flow directly

00:20:38
Clauses in the contract contacts

00:20:41
party with her often investor,

00:20:43
or the steering company in

00:20:45
the whole state or identity

00:20:46
and the consequences that flow

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from the first. In terms

00:20:54
of a federal law on

00:20:59
general principles of law, But

00:21:05
a pretty standard what a

00:21:06
beauty. And I got a

00:21:08
radiation or the same standard

00:21:17
industrial hose state had an

00:21:19
excellent idea of what practical

00:21:22
terms in real life. These

00:21:24
production mean in contract arbitration,

00:21:27
typically order applying is larger

00:21:30
than ours in the contract.

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Covering up a contract for

00:21:34
the domestic law of the

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whole state parties. In August,

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As a result there isn't

00:21:40
a standard I set a

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rice and obligations and contracts

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on her claws. Whatever you

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need, a contract to Desoto

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to put the whole lot

00:21:47
and less you have it

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already. Loaded, has brought with

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you live. New York, law

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can be very difficult for

00:21:53
one party or both have

00:21:55
a good understanding. What I

00:21:56
would have done it in

00:21:57
France. Standing tree arbitration Astro

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station that happen whether a

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Klingon qualify as an investor

00:22:07
would have acted investment as

00:22:09
a behind, a tree investing

00:22:14
in another state. Did John

00:22:18
Alden, positive arbitration about a

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pretty tree in caucuses by

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design for an educated person

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without that, I need to

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have it apart easily treated

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as an honored arbitration. Or

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if the law governing law

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allows certain non-signatories have standing

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to invoke the arbitration boss

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and friend that depends solely

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on whether the governing law

00:22:54
or the law governing. The

00:22:55
arbitration Clause allows third parties,

00:22:58
not looking forward to actually

00:22:59
take advantage of it and

00:23:00
it's a lot more complicated.

00:23:09
Third, the nature of clients

00:23:11
claims typically involve soldering acts

00:23:14
of state that allegedly violating

00:23:16
international law standards in the

00:23:18
tree and he's off of

00:23:20
the ministry of decisions of

00:23:23
the other half the size

00:23:24
of a state power. And

00:23:25
so treating claims cover a

00:23:27
broad range of. Honda Pilot

00:23:29
has stage performance issues and

00:23:38
Taylorsville traffic made a contract.

00:23:46
Claims are generally more limited

00:23:48
scope. Finish reading class are

00:23:52
Remedies for the arbitration generally

00:23:55
focuses on compensation for Crazy

00:23:57
Bruce's using the international corporation.

00:24:02
And we know what those

00:24:05
diapers by our Revolution, compensation

00:24:09
and satisfaction or apply. The

00:24:16
law remedies of governing law

00:24:18
contract which can be again,

00:24:20
buried for jurisdiction. And finally

00:24:23
on one point that Jim

00:24:25
May transparency 3D arbitrations increasingly

00:24:29
undecided transparency get into Republic

00:24:31
law of Nature and more

00:24:33
recent reviews require public access

00:24:35
the dog medicine. Heroes concentrations

00:24:38
typically remain confidential following traditional

00:24:41
privacy at the trailer show

00:24:43
the price of principal commercial

00:24:44
arbitration contract in Paris to

00:24:48
Berlin Zoo. And this last

00:24:51
point will not impacting, the

00:24:52
substance of rights of the

00:24:53
Contracting parties is in mind.

00:24:55
You never lust really important

00:24:57
and that is because for

00:24:59
the same reason, this panel

00:25:00
exists, it high I found

00:25:01
legitimacy system, assuming their contract

00:25:05
arbitration could replace the same

00:25:09
tax that have been levelled

00:25:10
at a ladder. Would likely

00:25:12
be leveled at former commercial

00:25:14
arbitration principle, which doesn't exist

00:25:18
but this will be fun.

00:25:21
We'll have to go through

00:25:24
this again in thirty years

00:25:27
has Michael, which is what

00:25:39
are some of the circumstances

00:25:40
in which investors might prefer

00:25:43
an investment contract protection. Even

00:25:48
when there could be a

00:25:49
better country protection. I think

00:25:50
we saw, this is historically,

00:25:52
investment contract were the only

00:25:54
means of such protection and

00:25:56
so Major companies investing abroad

00:25:59
with significant projects would prioritize

00:26:02
investment contract cuz they didn't

00:26:04
have an ambassador is my

00:26:11
thing. that contractual retaliation is

00:26:15
reparable and you hang a

00:26:17
scene at You can have

00:26:33
made her stand being by

00:26:34
releasing with an obligation or

00:26:36
me the parent. A couple

00:26:37
of the inauguration date to

00:26:48
another man, is actually probably

00:27:10
maybe situation for you have.

00:27:16
what are you getting our,

00:27:20
if you will call me,

00:27:21
maybe Sure, all of your

00:27:45
damaged image say so in

00:27:49
what situations would investors, potentially

00:27:52
preferably contract over in Street,

00:27:54
how much is a message

00:27:58
in a devil? You know

00:28:00
what, a tree in the

00:28:07
case of strategic sectors involving

00:28:10
long-term benzo, long-term Investments, were

00:28:12
you talking about a very

00:28:13
large construction project telecommunications or

00:28:17
where you're exploring and extracting

00:28:20
natural resources when you're talkin

00:28:22
about these factors? That had

00:28:23
a very long time. Line

00:28:25
investors are going to be

00:28:26
in contract with the government

00:28:28
of extra specificity and its

00:28:33
ability to feel on top

00:28:34
of the drawer trash cans

00:28:35
up. So I need a

00:28:43
message with just a t-shirt.

00:28:54
There could be a situation

00:28:55
when a government might be

00:28:57
able to contract for Clarity

00:28:59
on the ribbon. For example,

00:29:01
of formula, for this has

00:29:06
been negotiated with a contract

00:29:09
for the formula. Weight is

00:29:18
what happens when there is

00:29:22
overlap. And a government provide

00:29:26
a contractual Clarity. When there's

00:29:29
also an investment treaty protection?

00:29:31
What happens when there's an

00:29:32
opinion, hop tradition between an

00:29:34
investment contract? And Josh and

00:29:43
he is Wiley hosting us

00:29:45
and he's where Intrepid in

00:29:46
personal login to have. Breathed

00:29:48
be here in person. So,

00:29:52
thank you, everybody. We already

00:29:55
heard a couple of people

00:29:57
with her today to the

00:29:58
title over 2 days, if

00:30:00
not investor-state, tree arbitration. Then

00:30:03
what will, he's a question

00:30:05
that begs a number of

00:30:06
questions? And for starters, should

00:30:09
we be looking for an

00:30:10
alternative actually replace investment treaty

00:30:13
arbitration? The fact remains that

00:30:15
the investment treaty machine is

00:30:17
Rue a bus, ever mean,

00:30:19
thousands of bilateral and multilateral

00:30:21
treaty in place today. Various

00:30:24
these treaties have some pretty

00:30:25
sunset Provisions, that provide protection

00:30:28
for years 15-20 years after

00:30:32
renunciation of termination of tree.

00:30:35
So the world of invested

00:30:36
trees may continue to evolve

00:30:38
but it's not going to

00:30:40
suddenly include. We're not going

00:30:42
to suddenly find ourselves in

00:30:43
the world without any investment

00:30:44
treats. As practitioners only advise

00:30:48
clients on cross-border transactions. We

00:30:50
consider the full array of

00:30:51
protections and I started getting

00:30:53
to this a minute ago,

00:30:54
so this obviously includes trees.

00:30:56
Today. This also includes investment

00:31:00
contracts, contracts, and contract based

00:31:03
arbitration have always been part

00:31:05
of the field. They were

00:31:06
there before during and after

00:31:08
the proliferation of the US

00:31:10
House. So go ahead by

00:31:23
further discussion might be something

00:31:25
along the lines of in

00:31:27
addition to investors State treaty

00:31:29
arbitration then what? I need

00:31:33
you, not to cash it

00:31:34
today, but that one managed

00:31:36
to lure everybody in. So,

00:31:38
we have any tests volumes

00:31:39
hear me out. I have

00:31:41
a few comments on the

00:31:43
intersection of Grist house. Intersection

00:31:48
has been addressed in certain

00:31:51
recent investor trees, trees trees.

00:32:00
And I like to consider

00:32:10
is e, p p, p

00:32:11
p and the usmca. Both

00:32:14
demonstrate fairly recent that states

00:32:16
are mindful today of investment

00:32:18
contracts. When they're negotiating, investor

00:32:21
trees, and e-cigs very different

00:32:24
approach to the relationship between

00:32:26
Tree in contract rights. So

00:32:29
for the cptpp which has

00:32:31
been divorced in 2018, six

00:32:33
years ago, this month this

00:32:35
agreement Rose From the Ashes

00:32:37
of the trans-pacific partnership TPP

00:32:40
and have it has the

00:32:41
Next Generation free-trade re who's

00:32:43
going to be the world

00:32:44
war among other things to

00:32:50
include, not only arbitration, with

00:32:52
respect to invest, in chapter

00:32:53
allegations but also provided a

00:32:56
mechanism for arbitration in the

00:32:58
event of a breach of

00:32:58
investment agreements between investors and

00:33:01
in the estate investment, find

00:33:05
a contract between the Ambassador

00:33:06
and state in relation to

00:33:08
three main sector, natural resources,

00:33:12
public services and infrastructure. This

00:33:16
mechanism for investor-state arbitration contract

00:33:20
disputes affect effect on the

00:33:27
first day of term us

00:33:29
with a true and the

00:33:31
rain part, he's to the

00:33:32
treaty were left to figure

00:33:35
out an alternative version. Ft

00:33:37
going through the fact cptpp

00:33:39
expanded and pricing that I

00:33:43
don't trip over the letters,

00:33:44
t e p p, p

00:33:48
p p, g claims, as

00:33:54
number to contact parties reassure

00:33:57
their constituents that time by

00:33:59
eliminating this investor agreement provision,

00:34:02
they were narrow in the

00:34:03
school but Steve exposure to

00:34:05
the possibility of investor-state arbitration.

00:34:08
So then we look at

00:34:09
the usmca, which entered into

00:34:11
force in 2020, took a

00:34:13
different approach. I mean, first

00:34:15
Canada withdrew completely from the

00:34:17
investor State just beat chapter.

00:34:20
So that is certainly one

00:34:21
way to narrow your 15

00:34:22
speed mechanism. But we just

00:34:31
use through is treatment of

00:34:33
investment conference protections. Professors that

00:34:40
don't have contracts and brought

00:34:42
into protections for investors. That

00:34:45
do these are essentially the

00:34:47
same types of contracts that

00:34:49
were envisioned under the TTP.

00:34:50
Contracts directly between the state

00:34:52
and the investor in a

00:34:54
relation using three main factors,

00:34:56
specified, oil, gas. And then

00:35:00
I'm supposed to let it

00:35:01
go with mutations and investors

00:35:06
that hole in a Cupboard

00:35:07
government contract. The broader tax

00:35:10
is applied to both substitute

00:35:11
and procedural something to leave,

00:35:14
for example, and submitted a

00:35:17
claim for minimum standard treatment

00:35:19
violation, for brisia direct or

00:35:21
indirect tax preparation for Risha,

00:35:23
mfn War, national tree. He's

00:35:27
really investor with a contract

00:35:29
in proceed, straight arbitration subject

00:35:31
to certain time and requirements

00:35:33
under the tree and contrast

00:35:36
investor. That doesn't hold a

00:35:37
contract. Sounds good. We can

00:35:39
submit a minimum standard treatment

00:35:42
claim can submit an indirect

00:35:43
appropriation claim claim for rabbit

00:35:47
or a Slurpee violation. In

00:35:49
relation to the initial. A

00:35:50
position. Without a contract is

00:35:56
procedurally required for an exhaust

00:35:58
at least 3 years. How

00:36:08
many days is August? Set

00:36:10
up a parent is beating

00:36:11
us different investor groups, the

00:36:14
usmca puts up procedural hurdles

00:36:16
for investors who want to

00:36:19
pursue treaty rights. If they

00:36:20
don't pull contracts and it

00:36:22
limited the scope of a

00:36:23
sudden protections for investors adult

00:36:26
whole contract. We'll see what

00:36:30
fate May befall, usmca under

00:36:32
the Trump Administration, the second

00:36:34
time around for now, is

00:36:36
he the EDP and usmca

00:36:38
critical contrast and that each

00:36:41
adjusting? You know, they'll let

00:36:44
it rip contract rights in

00:36:45
different ways to achieve the

00:36:48
same generally, which is to

00:36:50
reduce the scope of State

00:36:52
exposure HD arbitration under the

00:36:55
tree. I mean, turn quickly

00:36:58
to ginger roots, the intersection

00:37:00
of treating contract for his

00:37:02
as long as focused Indian

00:37:04
medicine and Brooklyns, a breach

00:37:11
of the treaty obligations arising

00:37:12
from measures that impact, in

00:37:14
some way contractual rights entire

00:37:20
course, range of issues that

00:37:22
arise in this type of

00:37:23
the pieces. You have just,

00:37:24
for example, weather Ariza. Contract

00:37:27
Rises to the level of

00:37:28
intrigue, reach, weather results for

00:37:32
measure contract rights, even if

00:37:35
the contract was breached, Weather

00:37:37
State acted as Sovereign or

00:37:39
commercial party. And what are

00:37:40
the threat Elite weather in

00:37:43
Shreveport, missed a straight-up contract

00:37:46
claim through the mechanism of

00:37:47
the umbrella cause bladder a

00:37:50
contract form selection cause is

00:37:52
relevant to the treaty jurisdiction.

00:37:55
So the list goes on

00:37:56
a few as an example

00:37:59
of concrete application or some

00:38:01
of these principles all over

00:38:02
for a quickly. To the

00:38:03
very recent award in the

00:38:05
telephone, via Columbia is Paul

00:38:08
Hazen parmesan time, she was

00:38:09
on the cleaning. And so

00:38:15
let me just take the

00:38:19
longer through a local subsidiary

00:38:21
and as it is with

00:38:23
a concession contract, in the

00:38:24
90s to provide mobile phone

00:38:26
services, contract contains a reversion

00:38:29
Clause under the contract. When

00:38:34
the concession term ended, all

00:38:36
the infrastructure would revert back

00:38:38
to the state. In the

00:38:40
years to follow to encourage

00:38:41
further investment in the sector

00:38:42
Columbia pass multiple laws established.

00:38:46
This reversion obligation was limited

00:38:49
only to Radio free Asia

00:38:51
to hurry to the state.

00:38:52
But the rest of the

00:38:53
industry could remain in the

00:38:55
hands of the universe. 13

00:38:57
years later as telephone code

00:38:59
confessions from, with expiring the

00:39:01
Constitutional Court of Columbia ruled

00:39:04
that a pre-existing benefits, even

00:39:06
the contract did not benefit

00:39:08
from this new regime is

00:39:10
that all of the infrastructure

00:39:11
reverted to stay at the

00:39:13
end of the insect. And

00:39:15
then, at the end of

00:39:16
the term state, require the

00:39:17
concessionaire to pay hundreds of

00:39:18
millions of dollars in rental

00:39:20
fees, eat using the now,

00:39:27
did it be tribunal ruled

00:39:29
that the measure is Mount?

00:39:30
If you've reached the pair

00:39:32
Apple Tree in violence and

00:39:38
not emerge, SD could ignore

00:39:42
the reality that long-term contracts

00:39:45
in the technology-driven sector with

00:39:47
overtime. Have gaps or inadequacies

00:39:51
State had him committed, a

00:39:53
more favorable legal framework to

00:39:54
induce new investment and that

00:39:57
framework has stood for the

00:39:58
15 years based on that

00:40:00
framework. Telephone go ahead able

00:40:02
to eat at Rivers obligation

00:40:05
under the contract, be limited

00:40:08
to radio And this would

00:40:10
apply he didn't or contracted

00:40:12
a pre-existing to go all

00:40:13
that way. And almost bleed

00:40:16
the tribunal ruled that the

00:40:17
state later to decision to

00:40:19
apply to more Fable framework,

00:40:21
only contracts after 15 years

00:40:24
with sudden unpredictable and it

00:40:28
is proportion and he was

00:40:34
young with three issues, it

00:40:36
was a driving treaty obligations

00:40:38
as a matter of international

00:40:38
law. And so the contractual

00:40:41
Forum selection Clauses did not

00:40:43
borrow it and try and

00:40:44
she hardly knows. So, just

00:40:49
to quickly wrap up and

00:40:51
others, you have the intersection

00:40:54
of contractual issues. And another,

00:40:57
you have overlap, Registries for

00:41:00
buying a further layer of

00:41:02
protection on top of protections

00:41:05
that contract for Deeds, or

00:41:07
that particular you sure. But

00:41:11
also read more Raleigh, the

00:41:13
importance of transparency and stability,

00:41:16
and predictability to long-term investment

00:41:18
in strategic sectors, like it's

00:41:21
in the Telecommunications so much

00:41:24
like an investment contracts for

00:41:28
please, please. I would submit

00:41:31
know. They cannot for the

00:41:33
time being contracts and treaties

00:41:35
will this, and who is

00:41:38
this? And that's not going

00:41:39
to change anytime soon. I'm

00:41:44
really grateful for you because

00:41:48
he btdb to the usmca.

00:41:58
With respect to the interesting

00:42:00
provision of the usmca that

00:42:02
provide potentially greater treaty protection.

00:42:06
At least. Procedurally to investors.

00:42:08
Who have contracts are the

00:42:11
camels boss on. The incentives

00:42:15
that amount. I'm not sure

00:42:31
that is centralized as an

00:42:33
ambassador. I believe that were

00:42:49
mentioned then. Stop it. You

00:42:52
don't have it in front

00:42:53
of it so you can

00:42:54
ask can actually do anything

00:42:55
about it. And everything that

00:42:57
many of the fields in

00:42:58
which investors pursue contract with

00:43:00
the hose State, whether the

00:43:01
Contractor License, there are fields

00:43:05
in which you have to

00:43:07
pursue that contract with the

00:43:09
state. And so, and so

00:43:19
far as it does I

00:43:20
would think that it just

00:43:23
increases on a serpentine terms

00:43:24
of what the state's next

00:43:25
action is going to be

00:43:26
in the isps field and

00:43:28
in the yard is there

00:43:36
Any other thoughts? Does provisions

00:43:46
in in usmca are extraordinary,

00:43:50
and instead of what I

00:43:56
do, I don't know. The

00:43:57
usmca is necessarily a path

00:44:01
forward and break a fever,

00:44:08
and she can take man,

00:44:18
cuz because it is a

00:44:31
desire to return, What is

00:44:35
DS was 34 years ago

00:44:38
when we need to deal

00:44:40
only with big infrastructure project?

00:44:43
That's where we're going to

00:44:44
focus. We're going to focus

00:44:45
on exploration in those areas

00:44:47
or are they out more

00:44:59
or less? What it was

00:45:00
before all these issues card

00:45:05
out and do it. And

00:45:09
then Is it a PT

00:45:13
Cruiser or a? You know?

00:45:14
That? Examine a m, a

00:45:25
d m, a g, n,

00:45:25
a c. This is coming

00:45:43
out of the Columbia case

00:45:45
that you mentioned, Jonathan. And

00:45:48
I don't mean to invite

00:45:49
a whole new handle topic

00:45:51
here. But there is a

00:45:52
sense that that discussion of

00:45:54
the tribunal about what it

00:45:55
is State conduct was commercial

00:45:58
or not is important. And

00:46:01
one that has a case,

00:46:02
the existence or not, that's

00:46:04
not a contract. You have

00:46:06
thoughts on the relationship between

00:46:08
soccer and neutral or is

00:46:13
that something Estate Investors are

00:46:15
thinking about when considering that

00:46:17
contract Clearly, I did not

00:46:24
land a question, anybody. I

00:46:29
negotiated one investment contracts last

00:46:32
couple years and so at

00:46:34
8. Do you think about

00:46:45
it? But the US perspective,

00:46:47
you know, there's an arbitration

00:46:49
reception stuff right in and

00:46:51
out of the pain that

00:46:52
many times has similar either

00:46:55
and it doesn't rain and

00:47:09
you would not comment. It

00:47:28
might seem sudden you start

00:47:30
putting some of the best

00:47:39
men treat, he's an investment

00:47:40
contracts and I think as

00:47:42
this panel has explains not

00:47:44
an issue of Alternatives but

00:47:46
it's going to be one

00:47:46
where there is an additive

00:47:47
or overlap in nature. But

00:47:50
that leaves one piece of

00:47:53
our topic that has not

00:47:53
yet been discussed which of

00:47:55
the bee. Then what did

00:47:57
not enough, former senior counsel

00:48:04
at Exit who work on

00:48:05
the AC tools and then

00:48:07
I'm at Sotto voce what

00:48:09
else should we be? Considering

00:48:10
when I come so fast?

00:48:14
Thank you. Thanks for being

00:48:21
here or in the present,

00:48:24
waiting on some of the

00:48:27
questions you could have sent

00:48:28
us. These questions before. Listen

00:48:35
to me. We had our

00:48:37
furnace on the facts of

00:48:38
the pushback against investment treaty.

00:48:41
Which I've been seeing, how

00:48:47
many minutes until it's on

00:48:50
the wrong. You know, the

00:48:54
best thing for easy, then,

00:48:55
what? And I don't get

00:48:58
hurt and that's been a

00:48:59
treaty with the Federation is

00:49:02
not going anywhere anytime soon.

00:49:03
So I don't know what

00:49:05
I'm saying. Ghostbuster that has

00:49:11
been treated with Tricia and

00:49:13
there could be investing car.

00:49:14
Tristan by. We've heard about

00:49:17
this morning, nor call investors

00:49:21
have access to that. Then

00:49:24
there's investment low on Trisha,

00:49:26
which I also exist. If

00:49:31
we assume that push back

00:49:34
at least in some parts

00:49:35
of the world, is he

00:49:37
invested State out of here?

00:49:39
Then I have to stay

00:49:43
out of treasure. Now, that's

00:49:47
if investment, allocation is not

00:49:50
habitable and I told I

00:49:53
had under the treaty contract,

00:49:55
or there's no one is

00:50:01
injured in a collision course.

00:50:05
Using, did you just losing

00:50:07
boss, especially in large infrastructure

00:50:10
projects? Taking water Pine Street

00:50:14
to Human Rights course. Is

00:50:16
it often result in further

00:50:18
to fall into the ocean

00:50:21
and stay safe combination? Last

00:50:26
refill and magazines? And also,

00:50:31
what is Clarissa instruments, which

00:50:33
could play a role not

00:50:34
sitting on the way to

00:50:35
resolve disputes address? Now, I

00:50:42
just want to focus on

00:50:44
two of these options, not

00:50:46
sunk cost and a tiara.

00:50:50
Action before domestic, court's of

00:50:52
the whole state. But there

00:50:57
are obstacles. One is the

00:51:01
question of the possible paths

00:51:03
that is only a dollar

00:51:04
cost in Tradition. That is

00:51:17
very practical and go to

00:51:23
court lawyers. There's also the

00:51:32
issue of the Seas. I

00:51:41
didn't lose the issue of

00:51:43
compensation if I was lying.

00:51:50
Fast food instead by the

00:51:53
very nice 7, users can

00:51:58
only be resolved through the

00:51:59
application. Then there's the issue

00:52:06
of enforcement actions of 2005

00:52:20
and 2019. Go to my

00:52:25
Google. Go to sleep. Box

00:52:31
that I since it is

00:52:32
right now, which one is

00:52:34
it going to be in

00:52:44
American money? No, he's recently

00:52:50
been too costly could include

00:52:52
even though the easel enforcing,

00:52:54
I called judgement against the

00:52:56
state. Especially where the, where

00:52:59
the amount in question is

00:53:01
not significant. The question of

00:53:05
ability off your personal appeal

00:53:07
before that because all the

00:53:09
happiness, and I'm there, I'm

00:53:12
going to school College, directions.

00:53:15
Grand Bassa. This reminds me

00:53:28
of an event that I

00:53:30
spoke about 2 years ago,

00:53:32
address in a little while,

00:53:35
the executives are all the

00:53:36
benefits of attrition horrified by

00:53:42
the idea of high-profile folding

00:53:47
at World Bank. Is there

00:53:49
a long time? They also

00:54:03
liked the idea of what

00:54:05
other forms of energy are.

00:54:06
There were less confrontational. Shopkins.

00:54:11
What is the idea of

00:54:14
spending resources and time on

00:54:16
a process? That would complete

00:54:19
with no in front of

00:54:21
outcome? I was referring to

00:54:23
the other option is Edison.

00:54:28
Now, with the Singapore convention

00:54:30
on the addition of edible,

00:54:32
we may see more use

00:54:34
of the ocean for investor-state

00:54:37
dispute. Are they still adding

00:54:39
days so far? The Collision

00:54:42
has been signed by 5701

00:54:45
/, 14. The jurisdictions that

00:54:51
I've yet to ratify the

00:54:52
convention include song in which

00:54:56
I sense. That is typically,

00:54:59
I will change my voice

00:55:01
and gauged us invade Switzerland.

00:55:07
Not as possible that his

00:55:09
access to International nutrition, that's

00:55:12
to you. I wind down

00:55:13
until that. Maybe you need

00:55:15
all the statements, you need

00:55:17
to expand access to me

00:55:19
to get to the commission.

00:55:24
17 Arapaho. Say I thought

00:55:26
I spent the whole time

00:55:27
to find investment disputes with

00:55:30
naturally, keep Rising. I wanted

00:55:32
to do a patrician, his

00:55:34
behavior isn't Royce met already

00:55:37
resolving them, that does exist

00:55:40
there other oceans down the

00:55:43
road in the back to

00:55:44
the market. Forces could drive

00:55:47
countries that I wish to

00:55:48
offer incentives to investors to

00:55:52
make available before that, I

00:55:53
coached the types of remedies

00:55:55
that I know or feel

00:55:57
a little under an article.

00:56:01
The resulting increase in the

00:56:03
use of domestic court's would

00:56:04
naturally lead to the strengthening

00:56:07
of domestic legal systems across

00:56:09
the world along with the

00:56:11
after you find it. I

00:56:16
think it is a small

00:56:18
countries, right? If I Thank

00:56:26
you Dad and dang better.

00:56:38
We'll get it on a

00:56:39
question. So I hope that

00:56:40
you're considering and we will

00:56:42
turn those thoughts on these

00:56:50
examples that it was a

00:56:51
blade out today in a

00:56:56
minute discussion of, if not

00:56:57
of Esther's Beauty arbitration than

00:56:59
one, We were both surprised

00:57:18
and react to these kinds

00:57:22
of claims, as if the

00:57:24
investor in letting you know,

00:57:25
I did. And I get

00:57:29
outraged and how dare they

00:57:30
do this ourselves into a

00:57:34
place where a negotiated solution

00:57:38
reading a mediated solution is

00:57:41
is Not Practical for Norma

00:57:46
Jean cases, cases or the

00:57:52
illusion where they will voluntarily.

00:58:01
Agreed cops Avery something else

00:58:03
on on Domestic Court. Maybe

00:58:10
I am the way. The

00:58:11
whole reason we had investor-state

00:58:12
arbitration is, is district is

00:58:33
where we're having to drive

00:58:35
to codify and domestic law

00:58:38
protection and multiples of 84,

00:58:48
the time is, you will

00:58:52
have a sub to buy

00:58:53
location, that looks like if

00:58:55
you got to let me

00:58:55
get it to mastic late.

00:58:57
Maybe that will that will

00:58:58
hold on. And you know

00:59:07
the name of it, but

00:59:12
I'll let you know. I'll

00:59:13
see Lars Larson, show our

00:59:15
way forward. Other thoughts on

00:59:26
it. Sure, I'll offer thoughts

00:59:35
again as to mediation and

00:59:37
and and local dispute resolution

00:59:41
first, with respect to the

00:59:44
possibility of a solution. I,

00:59:47
I would remain skeptical of

00:59:50
that as well. And I

00:59:52
would know. I mean, one

00:59:53
of the advantages of the

00:59:55
investment treaty arbitration framework is

00:59:59
that, at least, we need

00:59:59
to provide for some type

01:00:01
of did Luke ride for

01:00:02
notice and station. So that

01:00:05
reason for the opportunity for

01:00:07
a negotiated resolution and what,

01:00:10
you know with the backing

01:00:12
of the treaty claims follow-up,

01:00:13
if there's no nudity, a

01:00:15
resolution to that, and I

01:00:17
think it is more than

01:00:19
just a straight-up me to

01:00:21
contact. That doesn't have a

01:00:25
claim on the rise in

01:00:26
22 in a really pretty

01:00:28
glad you choose and freedom

01:00:31
party's. When you go to

01:00:34
get resolution, likewise with a

01:00:36
respectable course, not all doom

01:00:39
and gloom, I understand. But

01:00:42
I also go back to,

01:00:44
you know, what are some

01:00:45
of the Chargers international version

01:00:49
that you know, or resolution

01:00:56
of a seal out of

01:00:58
the plays for the problem

01:01:00
of robes and do it.

01:01:01
While I was in a

01:01:02
rush to the problem arose.

01:01:03
And I am sure that

01:01:05
various investors would be skeptical

01:01:07
of an adverse Action. Bible

01:01:11
verse that they are going

01:01:14
to receive a full and

01:01:17
fair hearing of their issues

01:01:18
and and you know proper

01:01:19
resolution of the problem is

01:01:22
they could only options to

01:01:24
resort to there a local

01:01:26
citizen that they're struggling with

01:01:28
with issues in a relation

01:01:29
to their investment. Set a

01:01:34
reminder that it is also

01:01:37
a rise in that world

01:01:40
where investing has been to

01:01:42
Jack Pearson is not available

01:01:43
in contract. So what are

01:01:46
you doing? No, there should

01:01:51
have settlements that I took,

01:01:52
I took a miracle. We

01:01:54
want to be sad. If

01:01:56
you were going to be

01:01:56
any records today, the last

01:02:00
10. This is where I

01:02:02
think kisses. So it seems

01:02:09
to have a higher percentage

01:02:18
of settling. So, getting this

01:02:20
all out the wild written

01:02:22
as soon as possible under

01:02:24
Treatise on the bus and

01:02:27
contracts. But in that world

01:02:29
where it's at all possible,

01:02:31
you know, the question is

01:02:32
one of them. Where are

01:02:38
you? I'm not here. What

01:02:48
am I feel? Kind of

01:02:49
sad. That's already. I'm not

01:02:57
cooling off. And the automobile

01:02:59
selling. I can't think of

01:03:01
a man, these days is

01:03:02
in which wrestler has a

01:03:04
large investment. In the warm

01:03:05
countries are subject to some

01:03:07
Regulatory. And from the moment

01:03:11
I have room for when

01:03:13
they are not already engaged,

01:03:16
and so, there might be

01:03:19
more pressure on a sheet

01:03:20
of settlement because your daughter

01:03:21
will have more latitude are

01:03:23
more risk. There is no

01:03:24
treaty arbitration but because she's

01:03:28
resolution, or is it good

01:03:29
time to do that already,

01:03:30
in terms of courts in

01:03:34
moderate? Big cases in case

01:03:36
that has some out, National

01:03:38
importance of publicity? You think

01:03:40
that domestic court's can be

01:03:42
impartial and not political I

01:03:44
would highly secure with you

01:03:46
and then on other International

01:03:48
mechanisms, you know, it going

01:03:50
back to what was just

01:03:52
that, you know, if the

01:03:54
question is, an attack on

01:03:55
isds as a whole and

01:03:57
not just arbitration about arbitration

01:04:00
and every mechanism that order

01:04:04
place a call to mediation

01:04:06
insulation. Whatever is under the

01:04:09
national course. Unless of course,

01:04:10
we'll play against her will

01:04:12
be subject to the same

01:04:13
criticism that arbitration is subject

01:04:16
to now, because people just

01:04:20
agree with three guitar Patrician

01:04:21
and pronounce it. Appraised distinctly

01:04:24
Western us and the 10%

01:04:25
back and don't actually care.

01:04:27
They care about the states

01:04:29
have more and it won't

01:04:30
have it packed at the

01:04:31
most and their risk of

01:04:35
an Academy Award for me.

01:04:44
It is actually. In the

01:04:56
where we are now. Where

01:05:05
can you count down? The

01:05:07
road is where I stayed

01:05:09
as having gotten to where

01:05:10
they may feel certain States,

01:05:12
may feel the need to

01:05:13
get involved in such a

01:05:15
messed up and got a

01:05:20
question because what is it

01:05:21
that they haven't. We need

01:05:23
to make this wedding that

01:05:32
might have to be so

01:05:33
harsh with the other single

01:05:35
convention. If the state is

01:05:38
able to signal that opinion,

01:05:41
I don't. Let me open

01:05:48
it up. Now with a

01:05:50
thanks, again, to the panel

01:05:51
for these interesting remarks, we

01:05:53
would love to hear your

01:05:54
question will be covered. I

01:05:56
think almost every potential topic

01:05:58
when it comes to claims

01:06:00
an alternative. So anything spear

01:06:03
game question, T-Mobile stock that

01:06:08
you said investors may be

01:06:11
willing in a contract to

01:06:12
incorporate the big protection in

01:06:14
sovereigns would not suggest. There's

01:06:18
an imbalance in the design

01:06:19
of the B, begin with,

01:06:21
the could be remedied. Why

01:06:24
is it that but then

01:06:27
not offer those protections, unless

01:06:29
they And I'll repeat the

01:06:36
question for the benefit of

01:06:37
our online. Really a question

01:06:46
of What is in the

01:06:48
administrative? What is it in

01:06:50
the United States? And the

01:06:51
Ambassador had to get rid

01:06:52
of roaches? Yeah, that is

01:07:11
DSN arbitration on government contracts

01:07:23
is exceedingly rare. Is the

01:07:41
signal one inside of the

01:07:44
continents of the world, because

01:07:50
we got to get back

01:08:09
to work early today and

01:08:10
get them in the car

01:08:11
at ready. And I am

01:08:21
I am I am skeptical

01:08:22
about the political contacts that

01:08:35
That got him into going

01:08:36
to be willing to negotiate.

01:08:42
And it made it easier

01:08:57
to imagine. I'm actually, I

01:09:07
actually think that there is

01:09:09
there is room for improvement

01:09:11
in that Spider-Man has been

01:09:19
made and see how you

01:09:30
think there is. There is

01:09:31
room for greater exclamation of

01:09:34
the other rules in my

01:09:36
lateral entry. You know how

01:09:43
to do that? With respect

01:09:44
to the haters out there

01:09:46
question. Is. Politically the idea

01:10:03
of this investment chapters in

01:10:05
free trade agreements as the

01:10:07
political right now and so

01:10:14
people are withdrawing or not

01:10:16
the island process or what

01:10:19
have you? say, we're not

01:10:27
going to go to bed

01:10:28
and I get out of

01:10:51
the hospital to get her

01:10:52
picture. I would probably correct

01:11:02
me if I am a

01:11:05
Christian acts. Elizabeth, is it

01:11:27
discontinued? The practice? Your request

01:11:29
would be to go back.

01:11:30
We tried to caution, I

01:11:32
resolve it not why that

01:11:34
is going on. You have

01:11:35
options or if you're for

01:11:36
real, if it don't let

01:11:37
it stop. You could go

01:11:39
on. Patrician by whilk national

01:11:41
Patricia not. We made a

01:11:42
new law recently created a

01:11:44
professional magician. Acts of things.

01:11:45
Just last year, is your

01:11:47
phone in Vestal? International commercial

01:11:51
Investments or you could go

01:11:53
by way of any agreement

01:11:56
with the contract. If you

01:12:00
are It off for winter

01:12:02
to message. You cannot agree

01:12:04
to any more slot for

01:12:05
bilateral treaty. In this case,

01:12:07
the Singapore convention coming to

01:12:09
play by which you can

01:12:11
resolve the dispute between about

01:12:13
mediation and arbitration maybe on

01:12:15
Central and North Avenue, Tricia

01:12:17
bicc, 237 entity. Please please

01:12:25
have the final action to

01:12:29
resolve the dispute was like

01:12:33
every vessel protected resolving issues.

01:12:39
And if you feel to

01:12:40
do that, do not have

01:12:41
this option or online for

01:12:43
you, I know you can

01:12:44
pitch in all your discs

01:12:45
if you're clean and trying

01:12:48
to resolve it. Distribution of

01:13:04
resolving things. And then having

01:13:06
a composite approach that captures

01:13:08
everything. Thanks for that question.

01:13:12
The online members couldn't hear

01:13:15
a house that fit in

01:13:23
that a promising out of

01:13:25
year all open apps to

01:13:27
the panel. Maybe while you're

01:13:32
thinking about it. One thing

01:13:33
I would note is that

01:13:34
appointment came out early on

01:13:36
in this discussion was the

01:13:37
signaling that really was the

01:13:40
promise of that mystery yearly

01:13:42
on the signal to investors

01:13:44
internationally that we as a

01:13:47
government will hold the rules

01:13:50
in order to encourage and

01:13:56
was thinking of all tied

01:13:58
to your system quickly wanted

01:14:00
by a lack or put

01:14:02
limits on us and our

01:14:03
registration compensate for that signaling

01:14:05
deficit. I guess this is

01:14:24
a anyone stepbrother friend? 1.5

01:14:44
vehicles that would have been

01:14:46
very happy song. Any final

01:15:09
remarks heated. We're at the

01:15:10
end of our time. So

01:15:13
See, nothing pressing, car and

01:15:16
also want to ask something

01:15:26
from a two-goal, cushion delays

01:15:41
in this whole discussion about

01:15:43
our conversation, more marketing and

01:15:51
exercise. And I'm thinking more

01:15:59
in terms of a well-rounded

01:16:02
eyebrows me. I've heard of

01:16:03
the notion of, oh, I'm

01:16:05
going to replace in Baton

01:16:07
Rouge by Contracting out of

01:16:10
your house from the Arbitration.

01:16:26
And then you have very

01:16:41
well that that wanting to

01:16:43
contact at all things, 3.

01:16:45
So we're not really. Are

01:16:51
we meeting be seeing me

01:16:55
to take change so that

01:16:58
they had always had little

01:17:02
more commercial base gained a

01:17:06
Marketplace for they are. Klaus

01:17:14
has Adam Sandler. So I

01:17:25
want to know what what

01:17:26
do you think? What is

01:17:30
the next car for them

01:17:43
to get in? Get in

01:17:44
the game on this but

01:17:55
There's going to be a

01:17:56
problem, right there is a

01:17:57
problem in there. No, obvious

01:17:59
solution, problem. Being this through

01:18:01
political backlash changed is DNS.

01:18:03
And what do we do?

01:18:03
We need to fix it.

01:18:04
And with all information, Protection.

01:18:18
We need a solution and

01:18:20
whether it was a Senegal

01:18:23
marketing Ploy or not his

01:18:25
medical marketing Ploy. I think

01:18:27
it's worth having a discussion

01:18:28
seeing if there's if there's

01:18:30
something to fill the gaps

01:18:40
and maybe this is an

01:18:44
opportunity that is not to

01:18:46
be. Perhaps, rather than a

01:18:56
cynical marketing ploy to take

01:18:58
the marketing Ploy or investment

01:19:08
contracts for investment treaties, certainly

01:19:09
not for the foreseeable future.

01:19:10
It might be a question

01:19:11
of both. And and then

01:19:12
how do we didn't live

01:19:14
in a world in which

01:19:15
both types of protection can

01:19:17
exist or investors to wrap

01:19:20
up? I want to thank

01:19:21
our organizers again in and

01:19:23
Jose. Antonio Washington arbitration. We

01:19:26
thank you to the audience

01:19:28
for start off this week

01:19:31
was such a great discussion

01:19:32
and thanks for the panel

01:19:33
members for their excellent insights

01:19:35
and valuable contributions. 2024, welcome

00:00:32
everyone to Washington arbitration week

00:00:35
if it is our fifth

00:00:37
annual conference and will be

00:00:39
going on all this week

00:00:41
till Friday and we had

00:00:45
a response from the law

00:00:49
firms and practitioners here in

00:00:51
Washington, but as we have

00:00:54
over the whole history of

00:00:56
Washington arbitration, we've always made

00:00:59
efforts to make our sessions

00:01:01
virtual and available to the

00:01:03
general public and to the

00:01:04
world. And as a result,

00:01:06
we have folks watching from

00:01:10
every corner of the world

00:01:12
and supporting and taking part

00:01:16
in the conference. So, We

00:01:18
have many of these conferences

00:01:20
put on by various cities,

00:01:22
but we like to think

00:01:23
that not only are we

00:01:25
showing the best of Washington

00:01:29
and arbitration Community but we

00:01:31
are showing this to the

00:01:33
world as well as sharing

00:01:34
what we have to offer.

00:01:36
So thank you to everyone

00:01:38
who's dialed in virtually and

00:01:41
thank you to the folks

00:01:42
here. Today, we're going to

00:01:45
start off with a really

00:01:46
fantastic session. It has a

00:01:49
very long title but it

00:01:51
does. The short title is,

00:01:52
if not investor-state arbitration, then

00:01:55
what then what is going

00:01:58
to be. I think it's

00:01:59
a big part of the

00:02:00
discussion here today, and of

00:02:02
course, this is a very

00:02:03
topical issue in the international

00:02:06
arbitration community that reforms have

00:02:11
been attempted in our ongoing

00:02:12
in is dies, and there

00:02:16
is a certain level of

00:02:17
critique. That has existed over

00:02:20
the whole life by SDS,

00:02:22
which opportunity and the states

00:02:26
who govern these these treaties

00:02:27
with a r. And I'm

00:02:31
looking forward to hearing from

00:02:33
our panel today. We were

00:02:34
being moderated by a very

00:02:38
able moderator. This is Josh

00:02:40
shifts and prices of permanent

00:02:42
here at Wylie. Ryan. Josh

00:02:45
has extensive experience in litigation

00:02:49
and international arbitration involving a

00:02:52
broad. Range of Industries, including

00:02:53
energy sources, cryptocurrency, and financial

00:02:57
services. He also advises companies

00:03:00
on National Security Law, Public

00:03:02
international law and transnational, litigation

00:03:05
in US courts. I just

00:03:07
teaches International arbitration. As an

00:03:09
adjunct, professor University of Virginia

00:03:11
School of Law, and is

00:03:13
a fellow of the chartered

00:03:14
Institute of arbitrators and a

00:03:16
fin rot arbitrator. Before joining

00:03:19
Wiley Josh was at the

00:03:21
office of legal adviser at

00:03:23
the US Department of State.

00:03:24
So Josh has a great

00:03:25
experience in this area and

00:03:27
I know will moderate a

00:03:29
fantastic now, so I'll have

00:03:32
no, I'll just pass it

00:03:33
over to Josh and that

00:03:34
they do it. Thanks for

00:03:35
lunch. Thanks a lot of

00:03:37
cian and welcome. Everyone is

00:03:41
going to see you all

00:03:41
this morning. It is my

00:03:44
distinct pleasure to introduce you

00:03:46
to today panel to start

00:03:48
off, Washington. Arbitration panel is

00:03:51
the perfect way to start

00:03:52
the week because it really

00:03:54
is at the intersection of

00:03:55
law policy in the global

00:03:57
economic order. A mouthful. It

00:04:02
is, if not investor-state arbitration

00:04:05
than what an investment contracts,

00:04:09
replace investment treaties, including bilateral,

00:04:12
free trade agreements with investment

00:04:16
chapters. That is perhaps a

00:04:18
lot in good hands panel

00:04:25
to discuss this. I will

00:04:27
introduce them and then give

00:04:29
a very brief introduction of

00:04:30
this topic and then we

00:04:32
will proceed with a number

00:04:33
of different angles in which

00:04:35
investment contracts and investment treaties.

00:04:38
My first injection for our

00:04:42
panel. I have some, I

00:04:43
left Jim Mendenhall, who is

00:04:46
a partner in the international

00:04:48
arbitration and Trey group of

00:04:49
sidley, Austin, while he has

00:04:52
handled some of the largest

00:04:54
and highest-profile arbitration cases over

00:04:56
the last 10 years. Prior

00:04:59
to joining sidley, Austin gym,

00:05:00
with the general counsel of

00:05:02
the office of the US

00:05:03
trade representative and the assistant

00:05:05
ustr for services investment and

00:05:08
an intellectual property. He led

00:05:10
the ustr legal team in

00:05:12
connection with the development of

00:05:14
the 2004 us model B.

00:05:16
I T and the investment

00:05:18
chapters of multiple duet free

00:05:20
trade agreements. End of the

00:05:23
table. I have Gucci Mane,

00:05:26
who, who is an international

00:05:28
attorney at Aaron? Fox in

00:05:29
Washington, d.c. his current practice

00:05:32
focuses on International Investment, arbitration

00:05:34
commercial disputes and advisory services.

00:05:36
For more than a decade.

00:05:38
Luce was senior counsel at

00:05:40
the world bank's International Centre

00:05:43
for development of investment disputes

00:05:44
in Washington. D.c., he was

00:05:47
involved as Secretary of your

00:05:49
team leader in over 70

00:05:50
cases at various economic sectors

00:05:52
and was a core member

00:05:54
of the 2016 rules team.

00:05:59
We also have Jonathan Aldridge

00:06:01
who is counsel in the

00:06:02
international arbitration practice of a

00:06:04
global Law Firm. Paul Hastings

00:06:06
based in Washington, d.c., Jonathan

00:06:08
has nearly two decades of

00:06:10
experience advising multi-national corporations, International

00:06:13
organizations, and sovereigns in high-stakes

00:06:16
crossword. He works with client,

00:06:18
from a wide range of

00:06:19
Industries and his International practice,

00:06:21
band's best music radio station,

00:06:23
Commercial arbitration, and US trial,

00:06:26
and appellate litigation. And last

00:06:29
but not least, we have

00:06:30
Michael Rodriguez Martinez, who is

00:06:32
an associate of Hughes Hubbard

00:06:34
& Reed, is a member

00:06:35
of the firm's arbitration Practice

00:06:36
Group. And he has spent

00:06:38
almost 10 years handling disputes

00:06:40
in the international spear like

00:06:41
a lawsuit Clerk of the

00:06:42
United States court of appeals

00:06:43
for the eleventh circuit and

00:06:45
outside of Private, Practice is

00:06:47
Michael, is a professor at

00:06:48
Georgetown University Law, Center teaching,

00:06:50
advocacy, and international arbitration. Do

00:06:54
you heard a lot about

00:06:55
investment arbitration and Commercial arbitration

00:06:57
in contracts, cross-border disputes among

00:07:00
the experience of this group

00:07:03
of Panama. So those are

00:07:05
the issues we're going to

00:07:06
unpack, but just to give

00:07:08
a very quick introduction. Before

00:07:09
we start moving through the

00:07:11
we're talking about two different

00:07:13
types of legal instruments. Today,

00:07:16
first is an investment contract.

00:07:19
That's a contract between an

00:07:21
investor and a state is

00:07:23
a direct contract that the

00:07:24
party's going to go. She

00:07:25
ate, they conclude specific Provisions.

00:07:28
Governing investment dispute. Resolution the

00:07:32
second type of legal instrument

00:07:34
is an investment treaty that

00:07:36
is an agreement between two

00:07:38
states. That one of Esther

00:07:40
is a party to that

00:07:41
agreement and it provides consistent

00:07:44
many. But many of us

00:07:45
country by consent or arbitration

00:07:48
of spews, and provide a

00:07:52
framework, governing the Investments. Attacks

00:07:55
against expropriation or discriminatory treatment

00:07:58
and a lag. Do as

00:08:01
you will hear more about

00:08:02
and as many of you

00:08:03
probably know the system of

00:08:06
investment arbitration has been under

00:08:08
scrutiny in recent years, critics

00:08:10
argue, sometimes that these trees

00:08:13
favor investors at the expense

00:08:15
of state regulatory altonomy and

00:08:18
that alternative framework should be

00:08:21
explored. So that brings us

00:08:23
to our topic. Can investment

00:08:27
contracts. Be a substitute. We're

00:08:33
going to approach this from

00:08:35
four different question. For the

00:08:36
first is hand. The contract

00:08:39
accomplish the same objectives as

00:08:41
Investments 32nd. At a more

00:08:45
technical legal level how are

00:08:47
these contracts different from treaties

00:08:49
such as back to the

00:08:51
Forum for dispute resolution in

00:08:52
the applicable law. Third what

00:08:55
happens when investment contracts and

00:08:58
investment treaties overlap in their

00:09:00
coverage at 4? What are

00:09:03
other options for addressing investor-state

00:09:05
dispute? We're going to tackle

00:09:09
those questions one by one.

00:09:10
We will have each panelist

00:09:12
get an overview of the

00:09:14
issue, followed by some discussion

00:09:16
among the panel, we welcome

00:09:19
questions during that time or

00:09:20
the end. So please write

00:09:22
down notes, send it in

00:09:23
your questions and we look

00:09:25
forward to a robust discussion.

00:09:28
They kick things off. We

00:09:30
are going to start with

00:09:31
Jim Mendenhall who will tell

00:09:33
us more about the context

00:09:35
of this investment contracts verses

00:09:37
about Ministries issue over to

00:09:40
you Jen. Thank you. So

00:09:43
I need my my job

00:09:45
is a little tables that

00:09:46
I can get her to

00:09:46
and set it set up

00:09:47
contacts is just as a

00:09:48
job said, I don't know

00:09:50
which is what else would

00:09:55
have been happening and I

00:09:56
have invested a total amount

00:09:58
of the last time when

00:09:59
you hear what I said

00:10:00
with anybody, that is ESPN

00:10:09
as led to that, how

00:10:20
come you had an attitude

00:10:21
itself and would have resulted

00:10:24
in case is going to

00:10:25
be out of date and

00:10:26
time for the ocean, about

00:10:33
as deep as the number

00:10:34
of cases, has increased dramatically

00:10:36
over the years, really start

00:10:38
around for me. You had

00:10:41
a new and it is

00:10:42
Ways of using ists to

00:10:44
challenge. Only Direct Express creation.

00:10:46
An employee, instead of regular,

00:10:49
use a little bit of

00:10:51
procreation and swallowed us whole

00:10:57
area of the National Economic

00:10:59
relations team originally had the

00:11:09
bat and other issues. And

00:11:21
what do I have today?

00:11:23
Really is a coalition of

00:11:25
the left and right, and

00:11:26
I both have serious concerns

00:11:28
about the citizens on the

00:11:31
right. You had a pretty

00:11:32
certain that I Love You

00:11:34
by former ustr lighthiser who

00:11:37
believes that is BS. Dish

00:11:43
and levels to Broad &

00:11:52
Porter. Jobs, from the United

00:11:54
States are the criticisms of

00:11:56
the last dealing with concerns

00:11:57
about the right to regulate

00:12:00
environmental issues. And the light,

00:12:02
the result has been to

00:12:04
termination of the Road by

00:12:06
9:00 reminder. Al nation was

00:12:11
most of the Busch Gardens

00:12:13
in the last out of

00:12:13
low gear in the cottage

00:12:18
industry in General Lee for

00:12:22
basket. So the first is

00:12:24
I'm reform of the substance

00:12:25
of obligation clarifying, narrowing specifying

00:12:32
in Greater detail certain obligations.

00:12:35
Believe the things in life

00:12:36
are not compulsory been using

00:12:37
this in the seat of

00:12:38
you and you seen South

00:12:43
Carolina Weigh Station, Norfolk museums,

00:12:50
or procedural. And it said,

00:12:52
I have been a proposed

00:12:54
or new rules of transparency

00:12:58
or the world is going

00:12:59
on. In in the morning

00:13:00
room, 3 related to process

00:13:03
services in some cases that

00:13:09
you deal with a little

00:13:09
bit of any criticisms against

00:13:11
the is DSS those who

00:13:19
are trying to save it

00:13:21
and they're trying to save

00:13:22
it with process. It's a

00:13:24
real classic government respond to

00:13:26
me to set up into

00:13:27
the criticism with process and

00:13:28
said he want his mission.

00:13:30
And that was it. I

00:13:31
would answer that or two

00:13:33
more categories, one of the

00:13:36
bunch of things to do

00:13:37
during the first of those

00:13:39
is the is the arbitrator

00:13:41
to the self-help mechanism. were

00:13:43
you seen a number of

00:13:44
high-profile arbitrators is fine but

00:13:48
then they go one step

00:13:49
further and they say we

00:13:51
need to take matters into

00:13:52
our own hands and decide

00:13:54
cases and ways to go

00:13:55
get on the four corners

00:13:56
of the tree in order

00:13:57
to quote, unquote wish I

00:14:02
actually got a Job Corps

00:14:03
in the title at today,

00:14:15
which is this contract days

00:14:17
mechanism, which ended in in

00:14:20
one census is waving the

00:14:22
white flag on future investment

00:14:23
treaties. It's basically a sentence

00:14:26
that is why we may

00:14:26
not have do my lateral

00:14:29
investment treaty. We need something

00:14:31
else. And we'll, we'll go

00:14:33
with the contact solution and

00:14:35
had and try to come

00:14:36
over there. And that is,

00:14:37
what about Investors, tend to

00:14:39
go, she ate some of

00:14:39
these passions with a run

00:14:43
now, Kansai. Ben system replaced,

00:14:53
bilateral investment treaties, invest Chatters,

00:14:55
Prive. Bring obviously the answer

00:14:58
to that is no, right?

00:14:59
Which is not mean that

00:15:03
as a criticism. But they

00:15:04
drugged answer the question just

00:15:06
now and it'll give you

00:15:07
some two main reasons for

00:15:09
that. One is only protects

00:15:13
parties parties to a contract.

00:15:14
There are many that you

00:15:17
cases that are being brought

00:15:18
under investment treaties that have

00:15:19
nothing to do with government

00:15:20
contracts, just made me not

00:15:22
being a drunk, not an

00:15:23
appropriate proxy measurement to the

00:15:26
thought of how many days

00:15:27
might be. But you know,

00:15:29
if you look at umbrella

00:15:29
Klaus finds it's only been

00:15:31
about 16% of all, I

00:15:32
don't know. Extremely. Half of

00:15:41
those again other than sub-Saharan

00:15:42
African countries on the back

00:15:44
of that at at the

00:15:45
end. So I called the

00:15:52
one in contractual arrangements. Are

00:16:12
I won the second about

00:16:17
allegations? Are you truly trying

00:16:19
to replicate something to my

00:16:21
obligation in a bottle out

00:16:22
of the way? I've been

00:16:22
treating a contract and it

00:16:24
says you can't write so

00:16:26
General's. Termination Provisions, criminal justice

00:16:29
store, Prius Talisman protection from

00:16:34
those are not things that

00:16:37
you can really in a

00:16:38
bed. National provision. Is there

00:16:41
some talk about turning a

00:16:43
t, t into a contractual

00:16:45
Duty into a stabilization laws

00:16:48
may be but I think

00:16:49
that's probably why this is

00:16:56
so not only a great

00:17:15
restaurant location wish. So I'm

00:17:29
slightly over time. So I

00:17:30
got three short questions is

00:17:32
a better than nothing. Yes.

00:17:34
Is it a replacement? No,

00:17:35
will attend down the political

00:17:38
discontent. Maybe I'm better than

00:17:41
to Simply replicate. What is

00:17:43
in the current respiratory system?

00:17:46
Which I escaped? Is it

00:17:47
in the past? You seen

00:17:48
Aaron. That the number of

00:17:53
cases in the number of

00:17:54
Geico claims. Are you have

00:17:59
a clear answers to the

00:18:01
question that you don't love

00:18:04
you? Put it to the

00:18:04
panel though. I think in

00:18:08
a sense these are as

00:18:09
I said in the beginning

00:18:09
different types of illegal in

00:18:11
Minnesota did not going to

00:18:13
get her a replacement but

00:18:14
stepped into the potential oil

00:18:23
or werewolves exist or any

00:18:26
other Pasta Palace. so, Alfred.

00:18:35
First thing is I heard

00:18:36
everything. Looks so that's, that's

00:18:38
SK but I didn't. The

00:18:42
purpose of this for a

00:18:47
strategy to improve or modified

00:18:50
I should have laid hamburger

00:18:55
place three days already but

00:18:58
I think it's just an

00:19:02
excuse to just now and

00:19:05
use recourse to contract claims

00:19:10
as feeders better than protection.

00:19:15
For the permitting of the

00:19:16
reasons I have mentioned, it

00:19:19
actually can't step into the

00:19:21
void and any way and

00:19:27
we're playing crying eyes. At

00:19:37
that time, it was mentioned

00:19:40
that the contract to the

00:19:43
parties to the. Yeah. It's

00:19:47
also the fact that out

00:19:49
of all the decisions That's

00:19:59
probably a good segue to

00:20:01
the next point of discussion

00:20:04
here, which is what are

00:20:06
some of these differences level.

00:20:09
And my computer doesn't have

00:20:12
a cloud If they saw

00:20:15
us as we all know,

00:20:27
the rice and the consent

00:20:28
to arbitrate come from International

00:20:30
Business Degree. And so, the

00:20:32
best for the bride's exists

00:20:33
through that treaty or as

00:20:35
an arbitration, the rights and

00:20:37
consent flow directly Clauses in

00:20:39
the contract contacts party with

00:20:42
her often investor, or the

00:20:44
steering company in the whole

00:20:45
state or identity and the

00:20:47
consequences that flow from the

00:20:52
first. In terms of a

00:20:55
federal law on general principles

00:21:03
of law, But a pretty

00:21:05
standard what a beauty. And

00:21:07
I got a radiation or

00:21:09
the same standard industrial hose

00:21:18
state had an excellent idea

00:21:20
of what practical terms in

00:21:23
real life. These production mean

00:21:25
in contract arbitration, typically order

00:21:29
applying is larger than ours

00:21:31
in the contract. Covering up

00:21:32
a contract for the domestic

00:21:34
law of the whole state

00:21:35
parties. In August, As a

00:21:39
result there isn't a standard

00:21:41
I set a rice and

00:21:42
obligations and contracts on her

00:21:44
claws. Whatever you need, a

00:21:45
contract to Desoto to put

00:21:47
the whole lot and less

00:21:48
you have it already. Loaded,

00:21:49
has brought with you live.

00:21:51
New York, law can be

00:21:53
very difficult for one party

00:21:55
or both have a good

00:21:56
understanding. What I would have

00:21:57
done it in France. Standing

00:22:01
tree arbitration Astro station that

00:22:04
happen whether a Klingon qualify

00:22:06
as an investor would have

00:22:07
acted investment as a behind,

00:22:09
a tree investing in another

00:22:14
state. Did John Alden, positive

00:22:19
arbitration about a pretty tree

00:22:21
in caucuses by design for

00:22:23
an educated person without that,

00:22:26
I need to have it

00:22:27
apart easily treated as an

00:22:29
honored arbitration. Or if the

00:22:38
law governing law allows certain

00:22:41
non-signatories have standing to invoke

00:22:45
the arbitration boss and friend

00:22:49
that depends solely on whether

00:22:53
the governing law or the

00:22:54
law governing. The arbitration Clause

00:22:56
allows third parties, not looking

00:22:59
forward to actually take advantage

00:23:00
of it and it's a

00:23:03
lot more complicated. Third, the

00:23:10
nature of clients claims typically

00:23:12
involve soldering acts of state

00:23:14
that allegedly violating international law

00:23:17
standards in the tree and

00:23:19
he's off of the ministry

00:23:22
of decisions of the other

00:23:23
half the size of a

00:23:24
state power. And so treating

00:23:26
claims cover a broad range

00:23:28
of. Honda Pilot has stage

00:23:29
performance issues and Taylorsville traffic

00:23:39
made a contract. Claims are

00:23:47
generally more limited scope. Finish

00:23:49
reading class are Remedies for

00:23:53
the arbitration generally focuses on

00:23:55
compensation for Crazy Bruce's using

00:23:59
the international corporation. And we

00:24:04
know what those diapers by

00:24:06
our Revolution, compensation and satisfaction

00:24:10
or apply. The law remedies

00:24:17
of governing law contract which

00:24:19
can be again, buried for

00:24:20
jurisdiction. And finally on one

00:24:25
point that Jim May transparency

00:24:26
3D arbitrations increasingly undecided transparency

00:24:30
get into Republic law of

00:24:31
Nature and more recent reviews

00:24:33
require public access the dog

00:24:35
medicine. Heroes concentrations typically remain

00:24:39
confidential following traditional privacy at

00:24:42
the trailer show the price

00:24:43
of principal commercial arbitration contract

00:24:47
in Paris to Berlin Zoo.

00:24:50
And this last point will

00:24:51
not impacting, the substance of

00:24:53
rights of the Contracting parties

00:24:54
is in mind. You never

00:24:56
lust really important and that

00:24:58
is because for the same

00:24:59
reason, this panel exists, it

00:25:01
high I found legitimacy system,

00:25:03
assuming their contract arbitration could

00:25:06
replace the same tax that

00:25:09
have been levelled at a

00:25:10
ladder. Would likely be leveled

00:25:12
at former commercial arbitration principle,

00:25:16
which doesn't exist but this

00:25:20
will be fun. We'll have

00:25:23
to go through this again

00:25:26
in thirty years has Michael,

00:25:31
which is what are some

00:25:39
of the circumstances in which

00:25:41
investors might prefer an investment

00:25:45
contract protection. Even when there

00:25:48
could be a better country

00:25:49
protection. I think we saw,

00:25:50
this is historically, investment contract

00:25:53
were the only means of

00:25:55
such protection and so Major

00:25:58
companies investing abroad with significant

00:26:01
projects would prioritize investment contract

00:26:03
cuz they didn't have an

00:26:05
ambassador is my thing. that

00:26:13
contractual retaliation is reparable and

00:26:17
you hang a scene at

00:26:19
You can have made her

00:26:33
stand being by releasing with

00:26:35
an obligation or me the

00:26:37
parent. A couple of the

00:26:37
inauguration date to another man,

00:26:51
is actually probably maybe situation

00:27:14
for you have. what are

00:27:19
you getting our, if you

00:27:20
will call me, maybe Sure,

00:27:45
all of your damaged image

00:27:46
say so in what situations

00:27:50
would investors, potentially preferably contract

00:27:53
over in Street, how much

00:27:55
is a message in a

00:27:58
devil? You know what, a

00:28:01
tree in the case of

00:28:07
strategic sectors involving long-term benzo,

00:28:11
long-term Investments, were you talking

00:28:13
about a very large construction

00:28:14
project telecommunications or where you're

00:28:18
exploring and extracting natural resources

00:28:21
when you're talkin about these

00:28:23
factors? That had a very

00:28:24
long time. Line investors are

00:28:26
going to be in contract

00:28:27
with the government of extra

00:28:31
specificity and its ability to

00:28:33
feel on top of the

00:28:34
drawer trash cans up. So

00:28:42
I need a message with

00:28:44
just a t-shirt. There could

00:28:54
be a situation when a

00:28:56
government might be able to

00:28:57
contract for Clarity on the

00:28:59
ribbon. For example, of formula,

00:29:02
for this has been negotiated

00:29:08
with a contract for the

00:29:09
formula. Weight is what happens

00:29:21
when there is overlap. And

00:29:24
a government provide a contractual

00:29:27
Clarity. When there's also an

00:29:29
investment treaty protection? What happens

00:29:32
when there's an opinion, hop

00:29:33
tradition between an investment contract?

00:29:42
And Josh and he is

00:29:44
Wiley hosting us and he's

00:29:45
where Intrepid in personal login

00:29:47
to have. Breathed be here

00:29:52
in person. So, thank you,

00:29:53
everybody. We already heard a

00:29:56
couple of people with her

00:29:57
today to the title over

00:29:58
2 days, if not investor-state,

00:30:01
tree arbitration. Then what will,

00:30:04
he's a question that begs

00:30:06
a number of questions? And

00:30:07
for starters, should we be

00:30:09
looking for an alternative actually

00:30:11
replace investment treaty arbitration? The

00:30:14
fact remains that the investment

00:30:16
treaty machine is Rue a

00:30:17
bus, ever mean, thousands of

00:30:20
bilateral and multilateral treaty in

00:30:22
place today. Various these treaties

00:30:25
have some pretty sunset Provisions,

00:30:26
that provide protection for years

00:30:29
15-20 years after renunciation of

00:30:33
termination of tree. So the

00:30:36
world of invested trees may

00:30:37
continue to evolve but it's

00:30:40
not going to suddenly include.

00:30:41
We're not going to suddenly

00:30:42
find ourselves in the world

00:30:43
without any investment treats. As

00:30:47
practitioners only advise clients on

00:30:48
cross-border transactions. We consider the

00:30:51
full array of protections and

00:30:52
I started getting to this

00:30:54
a minute ago, so this

00:30:55
obviously includes trees. Today. This

00:30:58
also includes investment contracts, contracts,

00:31:02
and contract based arbitration have

00:31:04
always been part of the

00:31:05
field. They were there before

00:31:06
during and after the proliferation

00:31:09
of the US House. So

00:31:19
go ahead by further discussion

00:31:23
might be something along the

00:31:25
lines of in addition to

00:31:28
investors State treaty arbitration then

00:31:31
what? I need you, not

00:31:33
to cash it today, but

00:31:35
that one managed to lure

00:31:37
everybody in. So, we have

00:31:38
any tests volumes hear me

00:31:40
out. I have a few

00:31:41
comments on the intersection of

00:31:44
Grist house. Intersection has been

00:31:49
addressed in certain recent investor

00:31:52
trees, trees trees. And I

00:32:09
like to consider is e,

00:32:10
p p, p p and

00:32:11
the usmca. Both demonstrate fairly

00:32:15
recent that states are mindful

00:32:17
today of investment contracts. When

00:32:19
they're negotiating, investor trees, and

00:32:22
e-cigs very different approach to

00:32:24
the relationship between Tree in

00:32:26
contract rights. So for the

00:32:29
cptpp which has been divorced

00:32:31
in 2018, six years ago,

00:32:33
this month this agreement Rose

00:32:36
From the Ashes of the

00:32:37
trans-pacific partnership TPP and have

00:32:41
it has the Next Generation

00:32:42
free-trade re who's going to

00:32:44
be the world war among

00:32:46
other things to include, not

00:32:51
only arbitration, with respect to

00:32:52
invest, in chapter allegations but

00:32:55
also provided a mechanism for

00:32:56
arbitration in the event of

00:32:58
a breach of investment agreements

00:33:00
between investors and in the

00:33:02
estate investment, find a contract

00:33:05
between the Ambassador and state

00:33:07
in relation to three main

00:33:09
sector, natural resources, public services

00:33:13
and infrastructure. This mechanism for

00:33:17
investor-state arbitration contract disputes affect

00:33:21
effect on the first day

00:33:27
of term us with a

00:33:30
true and the rain part,

00:33:32
he's to the treaty were

00:33:33
left to figure out an

00:33:36
alternative version. Ft going through

00:33:38
the fact cptpp expanded and

00:33:41
pricing that I don't trip

00:33:44
over the letters, t e

00:33:45
p p, p p p,

00:33:48
g claims, as number to

00:33:55
contact parties reassure their constituents

00:33:58
that time by eliminating this

00:34:00
investor agreement provision, they were

00:34:03
narrow in the school but

00:34:04
Steve exposure to the possibility

00:34:06
of investor-state arbitration. So then

00:34:09
we look at the usmca,

00:34:10
which entered into force in

00:34:11
2020, took a different approach.

00:34:13
I mean, first Canada withdrew

00:34:16
completely from the investor State

00:34:18
just beat chapter. So that

00:34:20
is certainly one way to

00:34:21
narrow your 15 speed mechanism.

00:34:23
But we just use through

00:34:32
is treatment of investment conference

00:34:34
protections. Professors that don't have

00:34:40
contracts and brought into protections

00:34:43
for investors. That do these

00:34:46
are essentially the same types

00:34:48
of contracts that were envisioned

00:34:49
under the TTP. Contracts directly

00:34:51
between the state and the

00:34:53
investor in a relation using

00:34:55
three main factors, specified, oil,

00:34:58
gas. And then I'm supposed

00:35:00
to let it go with

00:35:01
mutations and investors that hole

00:35:06
in a Cupboard government contract.

00:35:08
The broader tax is applied

00:35:10
to both substitute and procedural

00:35:12
something to leave, for example,

00:35:14
and submitted a claim for

00:35:18
minimum standard treatment violation, for

00:35:20
brisia direct or indirect tax

00:35:22
preparation for Risha, mfn War,

00:35:25
national tree. He's really investor

00:35:28
with a contract in proceed,

00:35:30
straight arbitration subject to certain

00:35:32
time and requirements under the

00:35:33
tree and contrast investor. That

00:35:36
doesn't hold a contract. Sounds

00:35:39
good. We can submit a

00:35:40
minimum standard treatment claim can

00:35:43
submit an indirect appropriation claim

00:35:45
claim for rabbit or a

00:35:47
Slurpee violation. In relation to

00:35:50
the initial. A position. Without

00:35:51
a contract is procedurally required

00:35:57
for an exhaust at least

00:36:01
3 years. How many days

00:36:08
is August? Set up a

00:36:11
parent is beating us different

00:36:12
investor groups, the usmca puts

00:36:15
up procedural hurdles for investors

00:36:17
who want to pursue treaty

00:36:19
rights. If they don't pull

00:36:21
contracts and it limited the

00:36:23
scope of a sudden protections

00:36:24
for investors adult whole contract.

00:36:28
We'll see what fate May

00:36:30
befall, usmca under the Trump

00:36:32
Administration, the second time around

00:36:34
for now, is he the

00:36:37
EDP and usmca critical contrast

00:36:40
and that each adjusting? You

00:36:43
know, they'll let it rip

00:36:44
contract rights in different ways

00:36:46
to achieve the same generally,

00:36:49
which is to reduce the

00:36:50
scope of State exposure HD

00:36:53
arbitration under the tree. I

00:36:57
mean, turn quickly to ginger

00:36:59
roots, the intersection of treating

00:37:01
contract for his as long

00:37:02
as focused Indian medicine and

00:37:05
Brooklyns, a breach of the

00:37:11
treaty obligations arising from measures

00:37:13
that impact, in some way

00:37:15
contractual rights entire course, range

00:37:21
of issues that arise in

00:37:22
this type of the pieces.

00:37:23
You have just, for example,

00:37:25
weather Ariza. Contract Rises to

00:37:28
the level of intrigue, reach,

00:37:29
weather results for measure contract

00:37:33
rights, even if the contract

00:37:35
was breached, Weather State acted

00:37:38
as Sovereign or commercial party.

00:37:40
And what are the threat

00:37:41
Elite weather in Shreveport, missed

00:37:44
a straight-up contract claim through

00:37:47
the mechanism of the umbrella

00:37:48
cause bladder a contract form

00:37:51
selection cause is relevant to

00:37:53
the treaty jurisdiction. So the

00:37:55
list goes on a few

00:37:57
as an example of concrete

00:37:59
application or some of these

00:38:01
principles all over for a

00:38:02
quickly. To the very recent

00:38:04
award in the telephone, via

00:38:06
Columbia is Paul Hazen parmesan

00:38:09
time, she was on the

00:38:10
cleaning. And so let me

00:38:15
just take the longer through

00:38:20
a local subsidiary and as

00:38:22
it is with a concession

00:38:23
contract, in the 90s to

00:38:25
provide mobile phone services, contract

00:38:28
contains a reversion Clause under

00:38:32
the contract. When the concession

00:38:35
term ended, all the infrastructure

00:38:37
would revert back to the

00:38:38
state. In the years to

00:38:40
follow to encourage further investment

00:38:42
in the sector Columbia pass

00:38:44
multiple laws established. This reversion

00:38:47
obligation was limited only to

00:38:49
Radio free Asia to hurry

00:38:52
to the state. But the

00:38:53
rest of the industry could

00:38:54
remain in the hands of

00:38:55
the universe. 13 years later

00:38:58
as telephone code confessions from,

00:39:00
with expiring the Constitutional Court

00:39:02
of Columbia ruled that a

00:39:04
pre-existing benefits, even the contract

00:39:07
did not benefit from this

00:39:09
new regime is that all

00:39:10
of the infrastructure reverted to

00:39:12
stay at the end of

00:39:13
the insect. And then, at

00:39:15
the end of the term

00:39:16
state, require the concessionaire to

00:39:18
pay hundreds of millions of

00:39:19
dollars in rental fees, eat

00:39:22
using the now, did it

00:39:28
be tribunal ruled that the

00:39:30
measure is Mount? If you've

00:39:31
reached the pair Apple Tree

00:39:32
in violence and not emerge,

00:39:39
SD could ignore the reality

00:39:42
that long-term contracts in the

00:39:45
technology-driven sector with overtime. Have

00:39:48
gaps or inadequacies State had

00:39:52
him committed, a more favorable

00:39:53
legal framework to induce new

00:39:55
investment and that framework has

00:39:57
stood for the 15 years

00:39:59
based on that framework. Telephone

00:40:01
go ahead able to eat

00:40:03
at Rivers obligation under the

00:40:06
contract, be limited to radio

00:40:10
And this would apply he

00:40:11
didn't or contracted a pre-existing

00:40:13
to go all that way.

00:40:14
And almost bleed the tribunal

00:40:17
ruled that the state later

00:40:18
to decision to apply to

00:40:20
more Fable framework, only contracts

00:40:23
after 15 years with sudden

00:40:26
unpredictable and it is proportion

00:40:28
and he was young with

00:40:35
three issues, it was a

00:40:36
driving treaty obligations as a

00:40:38
matter of international law. And

00:40:40
so the contractual Forum selection

00:40:41
Clauses did not borrow it

00:40:43
and try and she hardly

00:40:45
knows. So, just to quickly

00:40:49
wrap up and others, you

00:40:53
have the intersection of contractual

00:40:54
issues. And another, you have

00:40:58
overlap, Registries for buying a

00:41:01
further layer of protection on

00:41:03
top of protections that contract

00:41:06
for Deeds, or that particular

00:41:08
you sure. But also read

00:41:11
more Raleigh, the importance of

00:41:13
transparency and stability, and predictability

00:41:16
to long-term investment in strategic

00:41:19
sectors, like it's in the

00:41:21
Telecommunications so much like an

00:41:27
investment contracts for please, please.

00:41:29
I would submit know. They

00:41:31
cannot for the time being

00:41:34
contracts and treaties will this,

00:41:37
and who is this? And

00:41:39
that's not going to change

00:41:39
anytime soon. I'm really grateful

00:41:45
for you because he btdb

00:41:54
to the usmca. With respect

00:41:59
to the interesting provision of

00:42:01
the usmca that provide potentially

00:42:04
greater treaty protection. At least.

00:42:06
Procedurally to investors. Who have

00:42:08
contracts are the camels boss

00:42:11
on. The incentives that amount.

00:42:31
I'm not sure that is

00:42:32
centralized as an ambassador. I

00:42:36
believe that were mentioned then.

00:42:51
Stop it. You don't have

00:42:52
it in front of it

00:42:53
so you can ask can

00:42:54
actually do anything about it.

00:42:56
And everything that many of

00:42:58
the fields in which investors

00:42:59
pursue contract with the hose

00:43:01
State, whether the Contractor License,

00:43:03
there are fields in which

00:43:06
you have to pursue that

00:43:08
contract with the state. And

00:43:16
so, and so far as

00:43:19
it does I would think

00:43:21
that it just increases on

00:43:23
a serpentine terms of what

00:43:24
the state's next action is

00:43:26
going to be in the

00:43:27
isps field and in the

00:43:28
yard is there Any other

00:43:37
thoughts? Does provisions in in

00:43:46
usmca are extraordinary, and instead

00:43:56
of what I do, I

00:43:56
don't know. The usmca is

00:43:57
necessarily a path forward and

00:44:06
break a fever, and she

00:44:08
can take man, cuz because

00:44:19
it is a desire to

00:44:32
return, What is DS was

00:44:36
34 years ago when we

00:44:39
need to deal only with

00:44:41
big infrastructure project? That's where

00:44:44
we're going to focus. We're

00:44:45
going to focus on exploration

00:44:46
in those areas or are

00:44:56
they out more or less?

00:44:59
What it was before all

00:45:01
these issues card out and

00:45:07
do it. And then Is

00:45:12
it a PT Cruiser or

00:45:13
a? You know? That? Examine

00:45:24
a m, a d m,

00:45:25
a g, n, a c.

00:45:40
This is coming out of

00:45:43
the Columbia case that you

00:45:45
mentioned, Jonathan. And I don't

00:45:48
mean to invite a whole

00:45:50
new handle topic here. But

00:45:51
there is a sense that

00:45:53
that discussion of the tribunal

00:45:54
about what it is State

00:45:56
conduct was commercial or not

00:45:59
is important. And one that

00:46:01
has a case, the existence

00:46:03
or not, that's not a

00:46:04
contract. You have thoughts on

00:46:07
the relationship between soccer and

00:46:10
neutral or is that something

00:46:14
Estate Investors are thinking about

00:46:15
when considering that contract Clearly,

00:46:23
I did not land a

00:46:24
question, anybody. I negotiated one

00:46:30
investment contracts last couple years

00:46:33
and so at 8. Do

00:46:44
you think about it? But

00:46:45
the US perspective, you know,

00:46:48
there's an arbitration reception stuff

00:46:51
right in and out of

00:46:52
the pain that many times

00:46:53
has similar either and it

00:47:02
doesn't rain and you would

00:47:17
not comment. It might seem

00:47:29
sudden you start putting some

00:47:30
of the best men treat,

00:47:39
he's an investment contracts and

00:47:41
I think as this panel

00:47:43
has explains not an issue

00:47:44
of Alternatives but it's going

00:47:46
to be one where there

00:47:47
is an additive or overlap

00:47:49
in nature. But that leaves

00:47:51
one piece of our topic

00:47:53
that has not yet been

00:47:54
discussed which of the bee.

00:47:55
Then what did not enough,

00:47:57
former senior counsel at Exit

00:48:05
who work on the AC

00:48:06
tools and then I'm at

00:48:07
Sotto voce what else should

00:48:10
we be? Considering when I

00:48:11
come so fast? Thank you.

00:48:15
Thanks for being here or

00:48:23
in the present, waiting on

00:48:27
some of the questions you

00:48:28
could have sent us. These

00:48:34
questions before. Listen to me.

00:48:35
We had our furnace on

00:48:38
the facts of the pushback

00:48:39
against investment treaty. Which I've

00:48:44
been seeing, how many minutes

00:48:49
until it's on the wrong.

00:48:52
You know, the best thing

00:48:54
for easy, then, what? And

00:48:57
I don't get hurt and

00:48:59
that's been a treaty with

00:49:01
the Federation is not going

00:49:02
anywhere anytime soon. So I

00:49:04
don't know what I'm saying.

00:49:09
Ghostbuster that has been treated

00:49:12
with Tricia and there could

00:49:13
be investing car. Tristan by.

00:49:15
We've heard about this morning,

00:49:18
nor call investors have access

00:49:21
to that. Then there's investment

00:49:25
low on Trisha, which I

00:49:28
also exist. If we assume

00:49:31
that push back at least

00:49:35
in some parts of the

00:49:35
world, is he invested State

00:49:38
out of here? Then I

00:49:42
have to stay out of

00:49:43
treasure. Now, that's if investment,

00:49:49
allocation is not habitable and

00:49:51
I told I had under

00:49:53
the treaty contract, or there's

00:49:56
no one is injured in

00:50:02
a collision course. Using, did

00:50:07
you just losing boss, especially

00:50:09
in large infrastructure projects? Taking

00:50:12
water Pine Street to Human

00:50:14
Rights course. Is it often

00:50:16
result in further to fall

00:50:19
into the ocean and stay

00:50:24
safe combination? Last refill and

00:50:27
magazines? And also, what is

00:50:31
Clarissa instruments, which could play

00:50:33
a role not sitting on

00:50:34
the way to resolve disputes

00:50:36
address? Now, I just want

00:50:43
to focus on two of

00:50:45
these options, not sunk cost

00:50:47
and a tiara. Action before

00:50:51
domestic, court's of the whole

00:50:52
state. But there are obstacles.

00:51:00
One is the question of

00:51:01
the possible paths that is

00:51:04
only a dollar cost in

00:51:14
Tradition. That is very practical

00:51:18
and go to court lawyers.

00:51:30
There's also the issue of

00:51:33
the Seas. I didn't lose

00:51:42
the issue of compensation if

00:51:46
I was lying. Fast food

00:51:51
instead by the very nice

00:51:53
7, users can only be

00:51:58
resolved through the application. Then

00:52:05
there's the issue of enforcement

00:52:07
actions of 2005 and 2019.

00:52:24
Go to my Google. Go

00:52:28
to sleep. Box that I

00:52:32
since it is right now,

00:52:33
which one is it going

00:52:34
to be in American money?

00:52:48
No, he's recently been too

00:52:50
costly could include even though

00:52:52
the easel enforcing, I called

00:52:55
judgement against the state. Especially

00:52:57
where the, where the amount

00:53:00
in question is not significant.

00:53:04
The question of ability off

00:53:06
your personal appeal before that

00:53:08
because all the happiness, and

00:53:10
I'm there, I'm going to

00:53:12
school College, directions. Grand Bassa.

00:53:27
This reminds me of an

00:53:29
event that I spoke about

00:53:31
2 years ago, address in

00:53:33
a little while, the executives

00:53:36
are all the benefits of

00:53:37
attrition horrified by the idea

00:53:43
of high-profile folding at World

00:53:48
Bank. Is there a long

00:53:54
time? They also liked the

00:54:04
idea of what other forms

00:54:05
of energy are. There were

00:54:07
less confrontational. Shopkins. What is

00:54:12
the idea of spending resources

00:54:15
and time on a process?

00:54:17
That would complete with no

00:54:20
in front of outcome? I

00:54:22
was referring to the other

00:54:24
option is Edison. Now, with

00:54:29
the Singapore convention on the

00:54:31
addition of edible, we may

00:54:33
see more use of the

00:54:35
ocean for investor-state dispute. Are

00:54:38
they still adding days so

00:54:40
far? The Collision has been

00:54:42
signed by 5701 /, 14.

00:54:47
The jurisdictions that I've yet

00:54:51
to ratify the convention include

00:54:54
song in which I sense.

00:54:57
That is typically, I will

00:55:00
change my voice and gauged

00:55:02
us invade Switzerland. Not as

00:55:08
possible that his access to

00:55:10
International nutrition, that's to you.

00:55:13
I wind down until that.

00:55:15
Maybe you need all the

00:55:16
statements, you need to expand

00:55:18
access to me to get

00:55:19
to the commission. 17 Arapaho.

00:55:25
Say I thought I spent

00:55:27
the whole time to find

00:55:28
investment disputes with naturally, keep

00:55:31
Rising. I wanted to do

00:55:33
a patrician, his behavior isn't

00:55:35
Royce met already resolving them,

00:55:38
that does exist there other

00:55:42
oceans down the road in

00:55:44
the back to the market.

00:55:45
Forces could drive countries that

00:55:48
I wish to offer incentives

00:55:49
to investors to make available

00:55:52
before that, I coached the

00:55:54
types of remedies that I

00:55:56
know or feel a little

00:55:58
under an article. The resulting

00:56:02
increase in the use of

00:56:03
domestic court's would naturally lead

00:56:06
to the strengthening of domestic

00:56:08
legal systems across the world

00:56:09
along with the after you

00:56:12
find it. I think it

00:56:16
is a small countries, right?

00:56:19
If I Thank you Dad

00:56:26
and dang better. We'll get

00:56:38
it on a question. So

00:56:40
I hope that you're considering

00:56:41
and we will turn those

00:56:44
thoughts on these examples that

00:56:51
it was a blade out

00:56:52
today in a minute discussion

00:56:57
of, if not of Esther's

00:56:58
Beauty arbitration than one, We

00:57:17
were both surprised and react

00:57:22
to these kinds of claims,

00:57:23
as if the investor in

00:57:25
letting you know, I did.

00:57:27
And I get outraged and

00:57:30
how dare they do this

00:57:30
ourselves into a place where

00:57:36
a negotiated solution reading a

00:57:38
mediated solution is is Not

00:57:42
Practical for Norma Jean cases,

00:57:47
cases or the illusion where

00:57:59
they will voluntarily. Agreed cops

00:58:02
Avery something else on on

00:58:06
Domestic Court. Maybe I am

00:58:10
the way. The whole reason

00:58:11
we had investor-state arbitration is,

00:58:13
is district is where we're

00:58:34
having to drive to codify

00:58:37
and domestic law protection and

00:58:41
multiples of 84, the time

00:58:49
is, you will have a

00:58:52
sub to buy location, that

00:58:54
looks like if you got

00:58:55
to let me get it

00:58:56
to mastic late. Maybe that

00:58:58
will that will hold on.

00:59:00
And you know the name

00:59:08
of it, but I'll let

00:59:13
you know. I'll see Lars

00:59:14
Larson, show our way forward.

00:59:25
Other thoughts on it. Sure,

00:59:33
I'll offer thoughts again as

00:59:36
to mediation and and and

00:59:39
local dispute resolution first, with

00:59:43
respect to the possibility of

00:59:45
a solution. I, I would

00:59:48
remain skeptical of that as

00:59:50
well. And I would know.

00:59:53
I mean, one of the

00:59:53
advantages of the investment treaty

00:59:56
arbitration framework is that, at

00:59:59
least, we need to provide

01:00:00
for some type of did

01:00:02
Luke ride for notice and

01:00:03
station. So that reason for

01:00:06
the opportunity for a negotiated

01:00:08
resolution and what, you know

01:00:11
with the backing of the

01:00:12
treaty claims follow-up, if there's

01:00:14
no nudity, a resolution to

01:00:16
that, and I think it

01:00:17
is more than just a

01:00:19
straight-up me to contact. That

01:00:22
doesn't have a claim on

01:00:26
the rise in 22 in

01:00:28
a really pretty glad you

01:00:29
choose and freedom party's. When

01:00:34
you go to get resolution,

01:00:35
likewise with a respectable course,

01:00:38
not all doom and gloom,

01:00:40
I understand. But I also

01:00:43
go back to, you know,

01:00:44
what are some of the

01:00:45
Chargers international version that you

01:00:51
know, or resolution of a

01:00:56
seal out of the plays

01:00:59
for the problem of robes

01:01:00
and do it. While I

01:01:02
was in a rush to

01:01:02
the problem arose. And I

01:01:03
am sure that various investors

01:01:06
would be skeptical of an

01:01:09
adverse Action. Bible verse that

01:01:13
they are going to receive

01:01:15
a full and fair hearing

01:01:17
of their issues and and

01:01:19
you know proper resolution of

01:01:22
the problem is they could

01:01:23
only options to resort to

01:01:24
there a local citizen that

01:01:26
they're struggling with with issues

01:01:29
in a relation to their

01:01:29
investment. Set a reminder that

01:01:35
it is also a rise

01:01:38
in that world where investing

01:01:41
has been to Jack Pearson

01:01:42
is not available in contract.

01:01:45
So what are you doing?

01:01:49
No, there should have settlements

01:01:52
that I took, I took

01:01:53
a miracle. We want to

01:01:54
be sad. If you were

01:01:56
going to be any records

01:01:58
today, the last 10. This

01:02:01
is where I think kisses.

01:02:08
So it seems to have

01:02:15
a higher percentage of settling.

01:02:19
So, getting this all out

01:02:21
the wild written as soon

01:02:22
as possible under Treatise on

01:02:26
the bus and contracts. But

01:02:28
in that world where it's

01:02:30
at all possible, you know,

01:02:32
the question is one of

01:02:33
them. Where are you? I'm

01:02:44
not here. What am I

01:02:49
feel? Kind of sad. That's

01:02:53
already. I'm not cooling off.

01:02:59
And the automobile selling. I

01:03:00
can't think of a man,

01:03:01
these days is in which

01:03:03
wrestler has a large investment.

01:03:05
In the warm countries are

01:03:06
subject to some Regulatory. And

01:03:08
from the moment I have

01:03:12
room for when they are

01:03:15
not already engaged, and so,

01:03:17
there might be more pressure

01:03:19
on a sheet of settlement

01:03:21
because your daughter will have

01:03:22
more latitude are more risk.

01:03:24
There is no treaty arbitration

01:03:25
but because she's resolution, or

01:03:29
is it good time to

01:03:29
do that already, in terms

01:03:31
of courts in moderate? Big

01:03:35
cases in case that has

01:03:36
some out, National importance of

01:03:39
publicity? You think that domestic

01:03:41
court's can be impartial and

01:03:43
not political I would highly

01:03:45
secure with you and then

01:03:47
on other International mechanisms, you

01:03:50
know, it going back to

01:03:51
what was just that, you

01:03:53
know, if the question is,

01:03:54
an attack on isds as

01:03:57
a whole and not just

01:03:58
arbitration about arbitration and every

01:04:01
mechanism that order place a

01:04:04
call to mediation insulation. Whatever

01:04:08
is under the national course.

01:04:10
Unless of course, we'll play

01:04:11
against her will be subject

01:04:13
to the same criticism that

01:04:14
arbitration is subject to now,

01:04:17
because people just agree with

01:04:20
three guitar Patrician and pronounce

01:04:22
it. Appraised distinctly Western us

01:04:24
and the 10% back and

01:04:26
don't actually care. They care

01:04:28
about the states have more

01:04:29
and it won't have it

01:04:31
packed at the most and

01:04:33
their risk of an Academy

01:04:36
Award for me. It is

01:04:46
actually. In the where we

01:05:01
are now. Where can you

01:05:06
count down? The road is

01:05:07
where I stayed as having

01:05:09
gotten to where they may

01:05:11
feel certain States, may feel

01:05:13
the need to get involved

01:05:14
in such a messed up

01:05:17
and got a question because

01:05:20
what is it that they

01:05:21
haven't. We need to make

01:05:23
this wedding that might have

01:05:33
to be so harsh with

01:05:34
the other single convention. If

01:05:36
the state is able to

01:05:38
signal that opinion, I don't.

01:05:48
Let me open it up.

01:05:49
Now with a thanks, again,

01:05:51
to the panel for these

01:05:52
interesting remarks, we would love

01:05:53
to hear your question will

01:05:54
be covered. I think almost

01:05:56
every potential topic when it

01:05:59
comes to claims an alternative.

01:06:01
So anything spear game question,

01:06:07
T-Mobile stock that you said

01:06:08
investors may be willing in

01:06:12
a contract to incorporate the

01:06:13
big protection in sovereigns would

01:06:15
not suggest. There's an imbalance

01:06:18
in the design of the

01:06:20
B, begin with, the could

01:06:21
be remedied. Why is it

01:06:24
that but then not offer

01:06:28
those protections, unless they And

01:06:35
I'll repeat the question for

01:06:36
the benefit of our online.

01:06:37
Really a question of What

01:06:48
is in the administrative? What

01:06:49
is it in the United

01:06:50
States? And the Ambassador had

01:06:52
to get rid of roaches?

01:06:57
Yeah, that is DSN arbitration

01:07:22
on government contracts is exceedingly

01:07:25
rare. Is the signal one

01:07:43
inside of the continents of

01:07:47
the world, because we got

01:07:54
to get back to work

01:08:09
early today and get them

01:08:10
in the car at ready.

01:08:12
And I am I am

01:08:21
I am skeptical about the

01:08:29
political contacts that That got

01:08:36
him into going to be

01:08:37
willing to negotiate. And it

01:08:43
made it easier to imagine.

01:08:57
I'm actually, I actually think

01:09:09
that there is there is

01:09:10
room for improvement in that

01:09:12
Spider-Man has been made and

01:09:19
see how you think there

01:09:31
is. There is room for

01:09:32
greater exclamation of the other

01:09:35
rules in my lateral entry.

01:09:42
You know how to do

01:09:44
that? With respect to the

01:09:45
haters out there question. Is.

01:09:59
Politically the idea of this

01:10:03
investment chapters in free trade

01:10:06
agreements as the political right

01:10:12
now and so people are

01:10:14
withdrawing or not the island

01:10:16
process or what have you?

01:10:27
say, we're not going to

01:10:28
go to bed and I

01:10:51
get out of the hospital

01:10:51
to get her picture. I

01:11:02
would probably correct me if

01:11:03
I am a Christian acts.

01:11:15
Elizabeth, is it discontinued? The

01:11:28
practice? Your request would be

01:11:29
to go back. We tried

01:11:31
to caution, I resolve it

01:11:32
not why that is going

01:11:34
on. You have options or

01:11:36
if you're for real, if

01:11:37
it don't let it stop.

01:11:38
You could go on. Patrician

01:11:40
by whilk national Patricia not.

01:11:41
We made a new law

01:11:43
recently created a professional magician.

01:11:44
Acts of things. Just last

01:11:46
year, is your phone in

01:11:48
Vestal? International commercial Investments or

01:11:53
you could go by way

01:11:54
of any agreement with the

01:11:56
contract. If you are It

01:12:02
off for winter to message.

01:12:03
You cannot agree to any

01:12:04
more slot for bilateral treaty.

01:12:06
In this case, the Singapore

01:12:08
convention coming to play by

01:12:10
which you can resolve the

01:12:11
dispute between about mediation and

01:12:14
arbitration maybe on Central and

01:12:16
North Avenue, Tricia bicc, 237

01:12:19
entity. Please please have the

01:12:26
final action to resolve the

01:12:30
dispute was like every vessel

01:12:34
protected resolving issues. And if

01:12:40
you feel to do that,

01:12:40
do not have this option

01:12:42
or online for you, I

01:12:44
know you can pitch in

01:12:44
all your discs if you're

01:12:45
clean and trying to resolve

01:12:48
it. Distribution of resolving things.

01:13:05
And then having a composite

01:13:07
approach that captures everything. Thanks

01:13:12
for that question. The online

01:13:14
members couldn't hear a house

01:13:22
that fit in that a

01:13:24
promising out of year all

01:13:27
open apps to the panel.

01:13:31
Maybe while you're thinking about

01:13:32
it. One thing I would

01:13:33
note is that appointment came

01:13:35
out early on in this

01:13:36
discussion was the signaling that

01:13:39
really was the promise of

01:13:40
that mystery yearly on the

01:13:42
signal to investors internationally that

01:13:46
we as a government will

01:13:49
hold the rules in order

01:13:53
to encourage and was thinking

01:13:58
of all tied to your

01:13:59
system quickly wanted by a

01:14:00
lack or put limits on

01:14:02
us and our registration compensate

01:14:04
for that signaling deficit. I

01:14:12
guess this is a anyone

01:14:25
stepbrother friend? 1.5 vehicles that

01:14:46
would have been very happy

01:14:47
song. Any final remarks heated.

01:15:10
We're at the end of

01:15:11
our time. So See, nothing

01:15:14
pressing, car and also want

01:15:25
to ask something from a

01:15:29
two-goal, cushion delays in this

01:15:42
whole discussion about our conversation,

01:15:48
more marketing and exercise. And

01:15:57
I'm thinking more in terms

01:15:59
of a well-rounded eyebrows me.

01:16:03
I've heard of the notion

01:16:04
of, oh, I'm going to

01:16:06
replace in Baton Rouge by

01:16:08
Contracting out of your house

01:16:11
from the Arbitration. And then

01:16:28
you have very well that

01:16:43
that wanting to contact at

01:16:44
all things, 3. So we're

01:16:46
not really. Are we meeting

01:16:51
be seeing me to take

01:16:56
change so that they had

01:17:01
always had little more commercial

01:17:03
base gained a Marketplace for

01:17:09
they are. Klaus has Adam

01:17:16
Sandler. So I want to

01:17:25
know what what do you

01:17:26
think? What is the next

01:17:31
car for them to get

01:17:43
in? Get in the game

01:17:44
on this but There's going

01:17:56
to be a problem, right

01:17:57
there is a problem in

01:17:58
there. No, obvious solution, problem.

01:18:00
Being this through political backlash

01:18:01
changed is DNS. And what

01:18:03
do we do? We need

01:18:03
to fix it. And with

01:18:09
all information, Protection. We need

01:18:18
a solution and whether it

01:18:23
was a Senegal marketing Ploy

01:18:24
or not his medical marketing

01:18:25
Ploy. I think it's worth

01:18:27
having a discussion seeing if

01:18:29
there's if there's something to

01:18:39
fill the gaps and maybe

01:18:44
this is an opportunity that

01:18:45
is not to be. Perhaps,

01:18:55
rather than a cynical marketing

01:18:57
ploy to take the marketing

01:18:59
Ploy or investment contracts for

01:19:08
investment treaties, certainly not for

01:19:09
the foreseeable future. It might

01:19:11
be a question of both.

01:19:11
And and then how do

01:19:13
we didn't live in a

01:19:14
world in which both types

01:19:16
of protection can exist or

01:19:18
investors to wrap up? I

01:19:21
want to thank our organizers

01:19:22
again in and Jose. Antonio

01:19:24
Washington arbitration. We thank you

01:19:27
to the audience for start

01:19:30
off this week was such

01:19:31
a great discussion and thanks

01:19:32
for the panel members for

01:19:34
their excellent insights and valuable

01:19:36
contributions.