

Impact on investment arbitration of the US and other countries' elections in 2024 *

Summary

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

The session at the Washington Arbitration Update focused on the impact of upcoming elections in 2024 on investment arbitration worldwide. The panel, moderated by Marilyn Carlson, featured experts discussing political and legal developments in various countries, emphasizing how these elections could influence international arbitration, particularly investment treaty arbitration.

A significant point raised was that elections in 64 countries, representing nearly 60% of the global population, are expected to occur in 2024. The panelists highlighted specific regions, starting with South Asia, where elections in populous democracies like India and Pakistan could lead to substantial changes in investment policies. For instance, India is renegotiating treaties with various countries, while Pakistan faces a critical economic situation ahead of its elections.

In Europe, the elections have shown a shift towards center-right politics, but panelists noted that this may not drastically alter international engagement or investment policies. The upcoming European Parliament elections were highlighted, with potential impacts on investment law and arbitration practices due to changing parliamentary dynamics.

Latin America was discussed next, with Argentina's recent election of a far-right president and its implications for investment disputes, particularly in the lithium mining sector. The Dominican Republic's stable governance was contrasted with the volatility seen in other nations, such as Venezuela, where political instability continues to pose risks for investors.

The panel also addressed the U.S. presidential election, noting that investor-state dispute settlement (ISDS) is under threat, with the potential for significant policy shifts depending on the election outcome. The discussion underscored the complexities and uncertainties surrounding investment arbitration in the context of global political changes.

Overall, the session provided a comprehensive overview of how the political landscape across different regions could shape the future of investment arbitration, highlighting both

challenges and opportunities for investors. The panel concluded with an invitation for further dialogue and reflection on these critical issues in the coming year.

Authors

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Topics

Investment arbitration, International Arbitration, Elections, 2024 Elections, Elections impact on investment arbitration

Category

WAU

Full Transcript

00:00:00

welcome to hello everyone and

00:00:06

welcome to World arbitration update.

00:00:10

Washington d.c. We've had a

00:00:13

great last few days. We

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spent the first two days

00:00:18

of wild this year in

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Beijing fantastic event, really appreciated

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the support of the Beijing

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arbitration Commission in the Beijing

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International arbitration Center fantastic group

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of supporters and sponsors and

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great speakers. We had eight

00:00:36

panels in Beijing this morning.

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We had two additional panels

00:00:41

and Doha thanks to the

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organizers there that went really

00:00:45

well and we very much

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appreciate their efforts as well

00:00:49

great speakers great topics. So

00:00:53

we're here and we're here

00:00:55

in Washington and We have

00:01:01

a panel here today, which

00:01:05

is continuing on with the

00:01:07

great quality while this year.

00:01:12

We are graced with a

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good group to address the

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topic titled impact on investment

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arbitration of the Us and

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other countries elections in 2024.

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So getting down into the

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Weeds on some political and

00:01:28

legal developments and and what

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that what will happen play

00:01:35

or not, but maybe in

00:01:37

the next year, so it's

00:01:39

my pleasure to introduce Marilyn

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Carlson who is an independent

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arbitrator here in Washington d.c.

00:01:45

Marin is the former co-chair

00:01:48

of the arbitration group sidley

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Austin. She's now arbitrating. I'm

00:01:55

doing very well she is

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Professor at the GW here

00:02:01

in Washington DC and is

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being one of the leaders

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of the arbitration community and

00:02:06

in Washington and really appreciate

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the Marin you you're taking

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this task on moderating such

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an unruly group. So I

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let me pass the microphone

00:02:15

to you and let's get

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started. Thank you so much

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again, and you'll first of

00:02:21

all on behalf of our

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entire panel our thanks to

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World arbitration update for bringing

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us together for Ian and

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Jose Antonio for thinking of

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us and and bringing the

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entire idea of the world

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arbitration update conference to fruition

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and really making this topic

00:02:38
globally accessible and I think

00:02:41
this conference does that in

00:02:42
a way that's that you

00:02:43
others can and do this

00:02:46
panel was inspired by the

00:02:48
fact that in 2024. We

00:02:53
are expecting to see elections

00:02:54
in at least 64 countries

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and that that represents almost

00:03:00
60% of the world's population

00:03:02
is going to have an

00:03:03
election this year of some

00:03:05

some level of significance of

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those elections. Do I have

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on the screen a list

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of the elections in question

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as well? Directions some of

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them of course of general

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elections. Some of them are

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our only legislative elections. Some

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of them are presidential elections

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10th on the system, but

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those elections are are are

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happening in our life. No

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matter what we do. They're

00:03:32

going to have massive political

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impact, but we think they

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will also have an impact

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on the world of international

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arbitration and especially on the

00:03:39

world of investment treaty arbitration.

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So far this year, we

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are up to the ones

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in yellow you'll note India's

00:03:46

ongoing so I haven't given

00:03:48

them a yellow market and

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the Dominican Republic with yesterday.

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So this is a very

00:03:54

hot topic a constantly moving

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Target run as we learned

00:03:59

over the weekend is going

00:04:00

to have to have another

00:04:01

election but we've we've gone

00:04:03

through a number of them

00:04:05

and we have more to

00:04:06

come we obviously this is

00:04:08

a very long list and

00:04:09

so we're not going to

00:04:10

try to cover every single

00:04:11

country on it today. But

00:04:14

we are we have a

00:04:15

great panel assembled that's going

00:04:17

to get us through at

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least. The ones in Red

00:04:19

so we will we will

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ourselves be covering a large

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swath of the world's population.

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And for that task we

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as a people assembled a

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great Channel and to let

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me just very brief introductions.

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Although as many of them

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are going to be known

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to you already and others

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you will be able to

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find out more about if

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you can tell their LinkedIn

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profiles in the like so

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I won't go into great

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except I'm about there first

00:04:43

to my immediate right? We

00:04:45

got pushed up pushed. Our

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cash flow is an Indian

00:04:48

qualified advocate in Washington DC

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and llm graduate from Georgetown

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University and previously worked as

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a case manager at the

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Mumbai Center for international arbitration

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and his Council and commercial

00:05:01
litigation and arbitration disputes in

00:05:03
India, which was going to

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lead us off with an

00:05:05
overview of the elections in

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some of the world's most

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populous democracy is in in

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South Asia. Then his right

00:05:13
is Mark Constantine. It is

00:05:15
he's a doctoral candidate and

00:05:17
visiting lecturer King's College in

00:05:19
London with a full scholarship

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from KCl Center of European

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law. I got to know

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some of his work because

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he serves as the senior

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editor of the appeal of

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the European Federation for investment

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law in arbitration blog and

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he's a qualified lawyer in

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Greece in the EU and

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registered at the Athens bar

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we've given Mark the small

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task of covering. All of

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your right is Galen Gering

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Flores who's a partner and

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Global co-chair of international arbitration

00:05:52

at Hughes Hubbard & Reed

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here in Washington DC and

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she has over 25 years

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of experience representing both multinational

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corporations and sovereign states in

00:06:02

in commercial and investment arbitration

00:06:04

and she is also co-hosts

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of the Excellence of the

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tee podcast. Is he an

00:06:10

international arbitration? brought to you

00:06:13

by the DC Bar International

00:06:14

Community, which I highly recommend

00:06:16

some tea countries in Central

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America and the timing back

00:06:21

in when we get to

00:06:22

the United States presentation color

00:06:25

there and I'm going to

00:06:26

her right you got a

00:06:27

daughter Madison has counseling Crowell

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& moring International dispute resolution

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group with Pickler focus in

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Latin America other based here

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in Washington DC and he

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concentrates his practice on International

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arbitration and litigation matters for

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clients in both investment and

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Commercial disputes and also has

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experience representing foreign and domestic

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clients including victims of terrorism

00:06:49

in sovereign immunity litigation elections

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in Venezuela and Mexico among

00:06:55

other countries in Latin America,

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and then as far as

00:07:01

far as if he's a

00:07:04

partner at wilmerhale in Washington

00:07:05

specializing in dispute resolution under

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trade agreements and investment treaties,

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he had a 10 year

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at the office of the

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US trade representative where he

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served as the US lead

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negotiator for the investment chapter

00:07:18

of the US Mexico Canada

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agreement usmca the replacement to

00:07:24

NAFTA and played a major

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role. In other key trade

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negotiations under the Obama and

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Trump administration's Lauren seen multiple,

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very different us administration's from

00:07:35

the inside. So we've given

00:07:36

him the challenge of the

00:07:37

u.s. Election. No small task

00:07:39

Mexico and Canada, but we

00:07:48

we are well armed with

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great panel to do so

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until I suggest we just

00:07:52

go ahead and launch it

00:07:53

so sure that we paid

00:08:02

for making this happen and

00:08:03

I think it is quite

00:08:07

timely and lots of time.

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Jump straight into some of

00:08:14

the Salvation democracy switch have

00:08:17

gone to elections and one

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of them is currently back

00:08:24

in is going on on

00:08:25

the seven faces and faces

00:08:27

on the results are going

00:08:29

to come out on 4th

00:08:30

of June but really happens

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in this address focus on

00:08:38

some of the key changes

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that could potentially impact Investments

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and investors and of course

00:08:43

the ongoing dispute and treaty

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negotiations letting guys having a

00:08:47

adult counterparts assuming that you

00:08:51

know, we're going to have

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the present Administration to continue

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for a third time then,

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you know, we're not going

00:08:58

to expect a different shift

00:09:00

and regulated top leadership change.

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A few key changes that

00:09:13

occur and I'm supposed to

00:09:16

be looking at some of

00:09:17

the sectors such as space

00:09:19

mining semiconductor manufacturing and also

00:09:22

put an airport for such

00:09:26

a Contraption to do a

00:09:27

few things that could impact

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our because that has been

00:09:33

seen as one of the

00:09:33

driving force of nature capital

00:09:36
inflow and development in the

00:09:38
region to be focusing on

00:09:48
NASA. But of course, we

00:09:50
have our own NASA time

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in India now that we

00:09:54
have a hundred percent FBI

00:09:56
them could be a significant

00:10:02
amount of investment coming in

00:10:03
in the manufacture of satellite

00:10:05
spectrum allocation and also to

00:10:08
Cycle Systems in itself. That

00:10:12
being said moving quickly to

00:10:14
others which I don't think

00:10:16

much of time but on

00:10:17

the VIP landscape as most

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most of y'all know India

00:10:22

has dominated almost 70 plus

00:10:25

introduced in 2016 as a

00:10:32

major shift from the previous

00:10:33

model. Now that being said

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India is also trying to

00:10:36

renegotiate with former partners and

00:10:39

some of them are mine

00:10:42

and I have about 6

00:10:45

or 7, but the one

00:10:46

that is quite recent 11

00:10:48

for today's discussion as in

00:10:51

the wake of Elections being

00:10:52

announced India signed a treaty

00:10:55

with UAE are which is

00:10:57

one of the very strong

00:10:58

trading partners of India now

00:11:00

just happened in on 13th

00:11:02

February and is not out

00:11:04

yet. But it seems like

00:11:06

this has been an extraordinary

00:11:07

effort on a very short

00:11:09

span of time. On 10th,

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March India sign another treaty

00:11:13

does not having is yes.

00:11:15

I can do that later

00:11:16

Association comprising of Switzerland Iceland.

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Even this treaty is something

00:11:25

that you know very much

00:11:27

to live watching on how

00:11:28

best cross-border trade investment could

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promote but the unfortunate fortunate

00:11:35

which depends on what side

00:11:37

of the car and you

00:11:37

are as it does not

00:11:38

have a nice beer stores.

00:11:39

Now, this is something expected

00:11:43

from Indian Trading partner, you

00:11:45

know, but on the side

00:11:46

of India and you reach

00:11:48

an agreement box that has

00:11:50

been a consistent push bar

00:11:51

having major investment cord, which

00:11:54

India has been considerably favoring

00:11:56

for the same time. If

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you'd open your name wants

00:11:59

to have the exhaustion of

00:12:01

local remedies that duration of

00:12:03

five years to build and

00:12:03

use something that has been

00:12:06

having for a while now,

00:12:07

but I just been something

00:12:10

What apps can I download

00:12:12

through all the negotiation but

00:12:15

the lucky ones around going

00:12:17

or India UK June 14th

00:12:19

round same problems. As I

00:12:22

said about you still exists

00:12:23

riding Russian Blue Cats remedies

00:12:25

in Australia Sri Lanka chile-argentina

00:12:29

potential announced and open up.

00:12:36

The lights are out. So

00:12:38

we're having a close watch

00:12:39

on what's really happening with

00:12:41

those are FTS in VIP

00:12:43

for a couple of investment

00:12:48

arbitration Awards, which has some

00:12:59

good about Mission possible GD&X

00:13:01

on Airport baggage handler case

00:13:04

and document is on the

00:13:10

Spectrum. Patient has been on

00:13:12

the site for India which

00:13:14

have been going on across

00:13:15

the globe including the US

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District Court, but the ones

00:13:21

to watch in the next

00:13:23

couple of months and years

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would be the award and

00:13:27
the second divorce case, which

00:13:30
is ongoing at the moment

00:13:31
as we speak and also

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the entity but the biggest

00:13:36
thing that I was just

00:13:37
making a buzzing India and

00:13:39
back part of the region

00:13:40
is an upcoming case against

00:13:42
India on the gold mining

00:13:44
dispute, which as we all

00:13:46
know mining District are on

00:13:48
the rise and it has

00:13:50
been threatened by notice of

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distilled by in do gold

00:13:54

and I'll stay in company

00:13:55

with parent company of internal

00:13:57

resources based in the UK.

00:14:00

It there but I quickly

00:14:01

switch gas and I know

00:14:03

my time is short and

00:14:04

I will let all my

00:14:05

other distinguished analyst have their

00:14:08

say on the rest of

00:14:09

the democracy. Going through Pakistan

00:14:12

Harris election in February that

00:14:16

is in crisis, which as

00:14:25

we can expect almost to

00:14:26
the tune of 24 us

00:14:27
billion dollar which is due

00:14:29
by the end of June

00:14:31
2024. So little next month,

00:14:33
so we don't know what's

00:14:35
going to happen. But at

00:14:35
the same time it does

00:14:37
still needed some of its

00:14:38
treaties and renegotiate our ongoing

00:14:40
quickest way to Bangladesh elections

00:14:42
happen in early John Cena

00:14:46
won her fourth consecutive record.

00:14:48
Now, that's an interesting space

00:14:50

to work because one of

00:14:51

the most populous countries with

00:14:53

a very small jobs to

00:14:56

the area. So they're excellent

00:14:57

growth opportunity for human capital

00:14:59

and the way in which

00:15:00

human resource could be utilized

00:15:02

for manufacturing and many others

00:15:04

to compete with China and

00:15:06

other major hubs, but that

00:15:08

being said one light pink

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logo. To notice all right

00:15:12

back and you don't answer

00:15:12

is most of the Bangladesh

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VIPs have a denial of

00:15:17

benefits plus Affinity which you

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really did not have to

00:15:21

prove expropriation to bring the

00:15:22

screen to do something that

00:15:24

you know, what has been

00:15:24

raised since I've been with

00:15:25

a Bangladesh and we can

00:15:27

expect no more of those

00:15:28

in the next one to

00:15:29

come but at the same

00:15:35

time I want to cover

00:15:36

some of the things that

00:15:39

I do. Is unlocked perception

00:15:47

people may have but that

00:15:48

being said she Lanka elections

00:15:50

is expected later this fall

00:15:53

and they're expecting to see

00:15:55

what best friends do not

00:15:56

like India and Sri Lanka

00:15:58

is also having a free-trade

00:16:00

Tik Tok so it'll be

00:16:02

interesting to note that space

00:16:03

as well on the Indonesia

00:16:04

side of the former leader

00:16:09

and was banned from contesting

00:16:11

elections podcast 10 years. So

00:16:13

that being said the former

00:16:16

Defense Minister has not won

00:16:17

the election in Indonesia, and

00:16:19

that has led to another

00:16:21

person even though his relatively

00:16:24

old. I mean 70s he's

00:16:27

a big fan of Tik-Tok

00:16:28

and technological Savvy person. So

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he's very fond of you

00:16:31

and what would happen with

00:16:34

the Young Generation which contribute

00:16:36

to the economy. So it

00:16:38

seems like a man who

00:16:39

wants to improve bilateral trade

00:16:41

talks with the neighboring countries.

00:16:43

So that's another issue. Watch

00:16:45

with Indonesia projected as the

00:16:47

next hok. Shahab and one

00:16:51

of the major reasons being

00:16:52

is trying to move the

00:16:53

capital city from Jakarta to

00:16:55

another city. So that could

00:16:56

potentially impact lot of investments

00:16:58

in process by and I'll

00:17:00

save it for next time.

00:17:02

He had made an animated

00:17:11

Avatar of himself on in

00:17:13

order to appeal to younger

00:17:14

voters. Maybe that's right Mark.

00:17:22

So you want to take

00:17:22

it then to Europe. Thank

00:17:26

you very much. And it's

00:17:27

a it's a great honor

00:17:28

to be part of this

00:17:29

panel and I will speak

00:17:36

of elections in Europe and

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invest in arbitration. At least

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I'm concerned I can't help

00:17:42

but be highly selective but

00:17:47

I wasn't happy to return

00:17:49

to any particular points allowed

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me to begin by saying

00:17:53

a few words on elections,

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which have already taken place

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across Europe over the last

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few months in terms of

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political commentary that is out

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there. It's been over all

00:18:07

kind of a shift towards

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center right right-wing parties, but

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I want to be cautious

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about Carnival fairing a unified

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political at tracks lead to

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a change in government are

00:18:22

not expected to released any

00:18:23

kind of drastic. Shoe store

00:18:27

or reduction in terms of

00:18:28

international engagement in engineering. We

00:18:31

saw a new president be

00:18:33

elected in Finland who is

00:18:35

a very strong supporter of

00:18:37

condensed can of course within

00:18:39

the EU and now nature.

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So he's expected to support

00:18:43

Billings International agenda within the

00:18:46

new country political context and

00:18:51

after the installation in the

00:18:54

war in Ukraine and similar

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in terms of impact in

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March Elementary elections in Portugal

00:19:04

leading to new center right

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at government succeeding a long-term

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Center less Administration. There are

00:19:10

questions there in terms of

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Governor ability, and we're not

00:19:15

quite sure how the Parliamentary

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Dynamics Will go because the

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minority government but still in

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terms of the overall course

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policy course of of the

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country in terms of investment

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matters. It doesn't seem like

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it would be a drastic

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policy shift very famous last

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words and in Croatia as

00:19:40

well. We stored the re-election

00:19:41

of incumbent government, which is

00:19:44

generally seen as pro-union Pro

00:19:47

business other elections that happened

00:19:50

recently are likely to generate

00:19:52

a greater uncertainty in the

00:19:54

last couple of months North

00:19:56

Macedonia went through presidential and

00:19:58

parliamentary elections in in both

00:20:02

to which the main opposition

00:20:02

National Party have prevailed Northwest

00:20:05

of candidate for accession to

00:20:08

the European Union and the

00:20:11

new president and incoming government

00:20:13

seemed to affect the opposing

00:20:17

normalization with me. Countries Greece

00:20:19

and Bulgaria and this compounded

00:20:23

by the perception of the

00:20:25

government that does the party

00:20:26

is pro-russia. I can have

00:20:28

the capacity of undermining efforts

00:20:31

to other country to join

00:20:33

the European Union. So then

00:20:34

we can do until this

00:20:38

this make create the essential

00:20:42

for generating dispute presidential elections

00:20:46

in Slovakia in the last

00:20:48

few months. Also led to

00:20:50

the election of the president

00:20:51

will seem to be friendly

00:20:54

to Russia potentially exacerbating uncertainty

00:21:00

in terms of foreign policy

00:21:01

including sanctions as well as

00:21:04

Environmental Policy. So it's interesting

00:21:06

to see how this involves

00:21:07

on a national level but

00:21:08

don't know how this will

00:21:08

affect you level the same

00:21:11

as well. Now that's more

00:21:15

important in terms of policy

00:21:17

impacts between the 6th and

00:21:19

9th of June will be

00:21:21

European Union elections in which

00:21:22

citizens of human birth dates

00:21:25

that we be voting for

00:21:27

the composition of the European

00:21:28

Parliament. You can Parliament is

00:21:29

one of the two less

00:21:31

the same institutions of the

00:21:32

European Union the other being

00:21:33

the Council of Ministers of

00:21:35

government of member states, but

00:21:38

the elections are not just

00:21:40

about the composition of parliament

00:21:43

itself that is important, but

00:21:45

at the same time and

00:21:47

majority of Parliament that needs

00:21:49

to confirm the appointment or

00:21:52

the new president of the

00:21:53

European commission the head of

00:21:54

the Executive Board of the

00:21:55

European Union following a nomination

00:21:57

of the name by the

00:21:58

member states Services, I think

00:22:03

even even more likely to

00:22:04

to have a policy impact

00:22:07

the European people's party is

00:22:10

expected to come first. This

00:22:11

isn't the right grouping but

00:22:12

the question Is whether it

00:22:14

would be able to form

00:22:14

is Professional Collision with the

00:22:17

central aisle Center a left

00:22:19

and liberal groupings or if

00:22:22

they would be nice to

00:22:23

reach out to more right-wing

00:22:24

a party. So in this

00:22:27

life, I envisaged three issues

00:22:29

in terms of impact on

00:22:31

investment law and investment racial

00:22:34

firstly even if the president

00:22:38

of the commission the incumbent

00:22:40

on them with lavender line

00:22:41

is reappointed the Parliamentary Dynamics

00:22:44

will profoundly shaped they use

00:22:46

Regulatory and legislative agenda of

00:22:49

the next five years. This

00:22:50

will shape the policy landscape

00:22:54

in Europe and my generator

00:22:55

or conversely perhaps p.m. To

00:22:57

Deschutes. We have seen Environmental

00:22:59

Policy the European greenbuild being

00:23:02

somewhat rollback visa visa application

00:23:05

on agriculture and and we

00:23:08

must also wait and see

00:23:11

if it would be any

00:23:12

changes. I'm concerning environmental or

00:23:16

energy subsidies, which is sometimes

00:23:19

floated. Of course, the overall

00:23:21

kind of policy Direction in

00:23:22

terms of decarbonisation is not

00:23:24

question, but this delivery might

00:23:26

be recalibrated which the term

00:23:33

will continue including developing instruments

00:23:38

responding to the G+ ization

00:23:40

for investment. So we'll see

00:23:42

we will see an overhaul

00:23:44

of the screen mechanisms of

00:23:46

foreign direct investment and inbound

00:23:48

investment as well as a

00:23:49

production of outbound FBI screening.

00:23:55

I can leave the European

00:23:56

Parliament risks becoming increasingly skeptical

00:24:00

of free trade agreements or

00:24:01

investment treaties which provide for

00:24:03

investment arbitration this the trend

00:24:06

which in many countries across

00:24:09

Europe and Beyond this will

00:24:13

complicate the ratification of investment

00:24:15

protection agreement. Is there a

00:24:20

negotiation for example with Indonesia

00:24:23

Mexican even quicker mentioned visit

00:24:25

in early stages, but the

00:24:27

agreement with India, that is

00:24:28

negotiate. The composition of the

00:24:33

European Parliament and commission and

00:24:35

affect the eu's a commitment

00:24:38

to reform Alliance gas before

00:24:40

the A train working group

00:24:41

3 and even bilaterally in

00:24:43

a relationship with the EU

00:24:47

and its member states have

00:24:49

been spearheading efforts to reform

00:24:50

investment arbitration as a way

00:24:54

to balance the needs of

00:24:55

investment protection on the other

00:24:57

hand have concerns in terms

00:25:00

of regulatory autonomy as well

00:25:01

as the credentials of isps

00:25:05

and the workability of the

00:25:06

governing Coalition has the bandwidth

00:25:13

to continue pushing for these

00:25:15

types of reforms bring something

00:25:18

look like in Westmont Court,

00:25:19

I expect that there will

00:25:20

be filed with the commission

00:25:22

will needs to work harder

00:25:23

to ensure that it does

00:25:25

not get distracted by an

00:25:26

evacuated political posturing and this

00:25:29

is a euphemism of my

00:25:30

presentation. In terms of the

00:25:33

UK the United Kingdom is

00:25:34

expected to hold elections with

00:25:37

a stronger 2025, but really

00:25:39

by the end of minutes

00:25:40

before the main opposition Labour

00:25:43

party is 20 points ahead

00:25:44

in the polls. So that

00:25:47

is That is where we're

00:25:49

at at the moment the

00:25:50

Labour party's compressor tis business-friendly

00:25:52

credentials and has adopted the

00:25:54

largely Centrist agenda. This includes

00:25:58

an 80 policy which again

00:26:00

has been recently named rolled

00:26:02

back. But there is a

00:26:04

commitment to decarbonize energy production

00:26:06

in trailer by expanding wind

00:26:09

capacity that is expected to

00:26:10

hold them on a big

00:26:12

scale. There's also a time

00:26:14

to relax analyzed all really

00:26:17

operators, but in a gradual

00:26:18

way in what is expected

00:26:27

to continue the discussion on

00:26:29

the UK's regulatory approach which

00:26:30

in which has been ongoing

00:26:32

since when did the brexit

00:26:33

referendum will the UK to

00:26:35

us while we're partial to

00:26:37

line with EU standards? Is

00:26:39

it willing to compromise on

00:26:40

its environmental and public health

00:26:41

standards for the sake of

00:26:43

Greater foreign investment or perhaps

00:26:44

increase chances of securing trade

00:26:47

investment. Agreements that is something

00:26:49

we will have to wait

00:26:50

and see secondly following brexit

00:26:54

the UK has embarked on

00:26:57

extensive negotiations for trade investment

00:27:00

agreements with several States, but

00:27:02

it has yet to develop

00:27:03

a comprehensive strategy post-brexite concerning

00:27:07

what is frankly think of

00:27:08

iced tea and the reasons

00:27:13

and the UK has said

00:27:14

that it is not considered

00:27:15

IPS to be appropriate and

00:27:18

it it has also mirrored

00:27:21

the eu's approach in terms

00:27:22

of withdrawing from the energy

00:27:23

trying to treat me but

00:27:25

at the same time the

00:27:26

UK has accepted an unreformed

00:27:29

kind of Orthodox version of

00:27:31

is BS within the context

00:27:33

of the cptpp the commencement

00:27:35

address for agreement for Trans

00:27:37

Pacific partnership. So we we

00:27:40

we need to kind of

00:27:41

wait for another station of

00:27:43

the UK's approach post brexit.

00:27:47

One smelled hold one's breath.

00:27:48

But this will I think

00:27:49

crystallize in you in due

00:27:52

course now about the coming

00:27:55

elections Beyond a u in

00:27:57

the UK ones which which

00:27:58

Bill munz radar I will

00:28:02

alone folks on a couple

00:28:03

but I'm happy to to

00:28:04

go into more detail on

00:28:06

Moore election is there are

00:28:09

presidential elections in Lithuania. We

00:28:12

charge you to complete in

00:28:13

a few days. The reason

00:28:14

why I'm selling this as

00:28:17

want to watch it because

00:28:18

the current prime minister is

00:28:20

running to be president against

00:28:23

incumbent president and the current

00:28:26

prime minister is a famous

00:28:28

name Pro Taiwan in this

00:28:32

has seriously affected the relationship

00:28:34

between Ukrainian China, which is

00:28:39

underpinned the development of an

00:28:41

antique Russian instruments at the

00:28:43

European Union level. So that

00:28:44

is that. May have Jubilee

00:28:46

Locations in that regard. I'm

00:28:49

also the Austrian legislative elections

00:28:52

will take place by Autumn.

00:28:54

I'm currently the poll suggests

00:28:56

that all right party will

00:29:01

win it is not clear

00:29:02

whether or with whom it

00:29:03

will be able to enter

00:29:04

into a government. But this

00:29:07

would be an election to

00:29:08

watch if the last night

00:29:10

the word government. This would

00:29:13

likely have a significant effect

00:29:16

in terms of Environmental Policy

00:29:19

as well as foreign policy

00:29:21

including sanctions and policies as

00:29:26

well and they undermine his

00:29:29

relationship with Brussels and a

00:29:32

finally moved over as a

00:29:34

presidential elections in October as

00:29:40

well as the incoming president

00:29:42

who is seen as being

00:29:43

brave is ahead in the

00:29:46

polls, but it's too early

00:29:47

to tell and the country

00:29:49

is restructuring its energy Supply

00:29:52

structures in terms of electricity

00:29:53

and gas speaking to completely

00:29:56

weaned off of Russian Russian

00:29:58

controlled energy sources do for

00:30:00

these kind of geopolitical reasons

00:30:03

the course of the elections

00:30:05

and may affect the energy

00:30:08

policy. So over all Europe

00:30:11

is is undergoing a period

00:30:13

of significant political change. Which

00:30:16

should not be overstated the

00:30:19

day you level there are

00:30:20

uncertainties and there will be

00:30:21

challenges that will emerge but

00:30:23

we see recalibration as I

00:30:24

said rather than a dramatic

00:30:26

Coliseum Eagle Energy policy may

00:30:30

be partially rebalanced English is

00:30:32

appears to be the main

00:30:35

Evolution Galaxy more importantly there

00:30:41

seems to be a significant

00:30:42

skepticism National legislators Visa v

00:30:44

i s d s in

00:30:45

this may impede an arsenal

00:30:48

of investment policy at ambitious

00:30:52

and wants the answer to

00:30:54

that is concerned is to

00:30:55

reform is DS but of

00:30:57

course that also takes political

00:30:59

capital and will the UK

00:31:02

has yet to settle on

00:31:03

investment treaties and Ice dies

00:31:06

in the prospects of context

00:31:07

and the British regulatory landscape

00:31:10

will crystallize after the coming

00:31:11

general elections and will be

00:31:14

affected perhaps more than in.

00:31:16

Acknowledge publicly a b Future

00:31:18

rapper smile with the European

00:31:21

Union in the elections of

00:31:23

important what are different reasons

00:31:28

you political kind of factors

00:31:31

May significantly affect energy policy.

00:31:37

Thanks very much much much.

00:31:39

And I forgot when I

00:31:40

was introducing Kayla that she's

00:31:41

also going to be the

00:31:42

one person gets to go

00:31:43

back to 2023. She sells

00:31:45

a good chocolate Argentina as

00:31:46

well. Take us into Latin

00:31:51

America. Thank you, my friend

00:31:52

and thanks to the world

00:31:54

arbitration update and everyone who's

00:31:56

here today. It's great to

00:31:57

see everybody and all those

00:31:59

online. Yes. I was the

00:32:03

one who wanted to look

00:32:05

under the hood a little

00:32:06

bit to 2023 because I

00:32:10

wanted to remind everyone that

00:32:11

that that that Argentina had

00:32:13

an election at the very

00:32:15

end of 2023 that brought

00:32:18

us some some interesting developments

00:32:20

and I also wanted to

00:32:22

kind of glom onto the

00:32:25

idea of change a lot

00:32:28

of the rhetoric that one's

00:32:29

using the Press regarding elections

00:32:33

and the different parties involved

00:32:34

in elections. Is that Parties

00:32:38

that are associated more with

00:32:40

the right and to be

00:32:41
more for investment or pro-business

00:32:42
and and you kind of

00:32:45
tend to see a generalization

00:32:46
that oh, well that must

00:32:47
be good for investment that

00:32:48
must be for a general

00:32:51
investment climate and for not

00:32:56
wanting more dispute, but I

00:32:58
think it is more apt

00:33:00
to focus on change and

00:33:03
uncertainty and the amount of

00:33:05
change and uncertainty that's happening

00:33:07
and I do think that

00:33:09

we see a lot in

00:33:10

the world a lot of

00:33:13

change and uncertainty involving Administration

00:33:17

is going to extremes whether

00:33:20

it's the extreme right where

00:33:22

the extreme left and or

00:33:24

those of us who have

00:33:26

been doing investment arbitration for

00:33:28

quite some time. That is

00:33:31

the best formula for an

00:33:33

investment arbitration. Honestly when you

00:33:36

have some Shift some huge

00:33:39

regulatory policy shift from the

00:33:41

left to the right or

00:33:42

the rights the left. So

00:33:44

just a reminder look out

00:33:47

for change. It's not necessarily

00:33:50

true that if an incoming

00:33:52

Administration is more to the

00:33:55

right at this is suddenly

00:33:57

going to be a better

00:34:00

environment for stability because you

00:34:03

might be looking at a

00:34:05

huge pendulum shift and whatever

00:34:08

you looking at pendulum shifts,

00:34:09

you're usually looking at an

00:34:12

environment that is quite right

00:34:14

for an investment dispute and

00:34:18

also a reminder that the

00:34:20

popular ISM that seems to

00:34:22

be pretty inescapable in today's

00:34:23

politics and come from the

00:34:25

left and come from the

00:34:27

right and it also tends

00:34:29

to have A fair share

00:34:31

of nationalism in isolationism built-in

00:34:37

which is pretty much the

00:34:39

antithesis of the Bretton Woods

00:34:41

system that a lot of

00:34:43

our investment arbitration was built

00:34:44

upon. So again, when you

00:34:47

see big stress either to

00:34:49

the right or to the

00:34:50

left you're looking at a

00:34:53

recipe for and that's when

00:34:56

our tradition to see it

00:34:57

and I did plan on

00:35:01

talking about the Dr. First

00:35:03

because the Dr. Just had

00:35:05

the Dominican Republic just had

00:35:06

its election yesterday. But of

00:35:10

course the headlines that popped

00:35:12

up on my phone first

00:35:13

today was about Argentina and

00:35:16

about so again going back

00:35:19

a bit to 2023 in

00:35:22

at the end of 2023

00:35:24

president. Leo was elected in

00:35:27

Argentina. He is of the

00:35:28

far-right and he Made it

00:35:31

known even some more of

00:35:33

the world even more publicly

00:35:35

that he is of the

00:35:36

far right by participating in

00:35:39

a very far right conference

00:35:41

that happened in Madrid supporting

00:35:44

candidates like Frances Marine Le

00:35:47

Pen and the prime minister's

00:35:50

from Italy and hungry and

00:35:55

the results of his participation

00:35:57

in that conference was Spain

00:35:59

cutting ties with Argentina. So

00:36:02

so, you know just a

00:36:04

little bit of change out

00:36:06

there and that that is

00:36:11

just something to watch. It's

00:36:13

something to watch when you

00:36:14

have regardless of the political

00:36:17

identity of a candle that

00:36:18

when you have a candidate

00:36:20

that's going out into the

00:36:22

geopolitical world and and And

00:36:25

acting so Perhaps unpredictably Perhaps

00:36:29

bombastically Malay has now succeeded

00:36:34

in training or cutting ties

00:36:37

with a number of countries

00:36:38

including Colombia Chile and Mexico.

00:36:40

So whenever you have a

00:36:43

little girl leader engaging in

00:36:46

such volatile conduct, you might

00:36:48

see a concomitant rise in

00:36:50

investment disputes particularly in a

00:36:54

nation like Argentina where everyone

00:36:56

is looking to invest in

00:36:58

lithium. So we've got mining

00:37:01

got mining on the line

00:37:03

in Argentina and people are

00:37:04

looking at Argentina compared to

00:37:08

Chile and Bolivia in particular

00:37:10

as a country that has

00:37:12

relatively are comparatively fewer regulatory

00:37:16

requirements lithium companies can be

00:37:20

completely privately owned in Argentina,

00:37:22

and that's not The case

00:37:25

in chili or or Bolivia

00:37:27

where in Mexico so you

00:37:29

do have a lot of

00:37:30

foreign investment really keenly interested

00:37:34

in Argentina that is currently

00:37:37

being led by a far-right

00:37:40

leader that is that is

00:37:42

known for being a bit

00:37:43

volatile and just as keeping

00:37:46

score a bit Argentina up

00:37:49

to today has had a

00:37:50

total of 65 investment arbitrations

00:37:53

brought against it eight of

00:37:55

those are pending moving on

00:37:57

to the Dominican Republic which

00:37:59

in comparison to Argentina might

00:38:01

be a bit boring, boring

00:38:03

is what investment life boring

00:38:05

like certainty. He does not

00:38:08

like a lot of change

00:38:09

or or investment doesn't like

00:38:11

a lot of change. So

00:38:12

boring is good yesterday the

00:38:15

president Ivy now there was

00:38:18

re-elected in the Dominican Republic

00:38:21

and he comes from a

00:38:22

pretty SunTrust. If not Centrist,

00:38:27

maybe a little bit right

00:38:27

position. He's known for a

00:38:30

deathly handing the cold and

00:38:32

alone in the covid crisis

00:38:33

his anti-corruption platform and also

00:38:37

has his harsh politics against

00:38:41

Haiti so you might you

00:38:44

know Particularly with respect to

00:38:48

a variety of ESG due

00:38:52

diligence supply chain due diligence

00:38:55

laws that are coming out

00:38:57

of Europe may be out

00:38:58

of California. You might see

00:39:00

those countries that are maybe

00:39:04

not as advanced on environmental

00:39:07

human rights and governments lines.

00:39:10

You might see investment disputes

00:39:12

popping up because the suppliers

00:39:16

in those countries that are

00:39:17

part of the supply chain

00:39:18

are not able to comply

00:39:20

with perhaps more robust standard.

00:39:24

So look out for that

00:39:26

in countries that maybe there's

00:39:29

not a big change, but

00:39:30

if there's a human rights

00:39:31

element if there is an

00:39:33

environmental element, maybe like in

00:39:34

Argentina, you might see some

00:39:37

investment disputes popping up Panama,

00:39:40

very interesting just a few

00:39:43

weeks ago elected. President Lee

00:39:47

know who was the running

00:39:50

mate of former president Martinelli

00:39:52

now Martinelli was was just

00:39:57

at the Supreme Court decided

00:39:59

that might be Natalie could

00:40:00

not run for president. They

00:40:03

did decide that Mulino could

00:40:04

run. That was the decision

00:40:07

that everyone was watching and

00:40:09

Panama and everyone is waiting

00:40:12

to see especially if Molina

00:40:14

will be truly separate from

00:40:17

from Murphy Nelly. That's the

00:40:22

big question. That's the big

00:40:24

uncertainty is Mulino can rule

00:40:27

without without essentially being a

00:40:31

puppet of my screen Ellie.

00:40:33

Then you will likely see

00:40:35

a Panama that is relatively

00:40:37

unchanged that is more pro-business

00:40:40

that it has been in

00:40:43

the past, but everyone's just

00:40:45

kind of waiting to see

00:40:46

what Happens Mulino has up

00:40:48

to this point said the

00:40:49

right things and and he

00:40:52

has nominated a cabinet which

00:40:54

is very pro-business and very

00:40:56

Pro investment. So relatively boring

00:41:00

boring is good, but we'll

00:41:03

see. We'll see what happens.

00:41:04

We'll also see what happens

00:41:06

with respect to the Copper

00:41:08

mining dispute that has been

00:41:11

following an end has been

00:41:14

quite a large and significant

00:41:16

dispute in Panama for the

00:41:18

past couple of years. We'll

00:41:19

see how the Mulino Administration

00:41:21

deals with all of the

00:41:23

disputes that have the copper

00:41:26

mine has generated and Leslie

00:41:28

and Sunday in February re-elected.

00:41:35

Which I guess you might

00:41:37

say is boring because he

00:41:40

is remaining on but LA

00:41:41

and it's in himself is

00:41:43

not boring at all that

00:41:47

I would I would classify

00:41:48

the vocal a Gambit as

00:41:50

Law and Order plus cryptocurrency

00:41:53

and you know, maybe some

00:41:57

investment maybe some investors were

00:42:00

very attracted by his clampdown

00:42:02

on Law & Order. They

00:42:04

were not so attracted by

00:42:06

his dive into cryptocurrency and

00:42:10

investing a large portion of

00:42:12

El Salvador reserves into cryptocurrency.

00:42:15

It might work out in

00:42:17

the end. But again, you

00:42:19

know, this is this is

00:42:20

an Administration that is that

00:42:23

is seen as quite volatile

00:42:25

and certainly not high on

00:42:29

the list of Human Rights

00:42:30

organizations these days so when

00:42:34

you see political leader That

00:42:36

are volatile and almost universally

00:42:40

reviled by human rights Advocates.

00:42:42

You might see some investment

00:42:44

disputes popping up there as

00:42:47

well. I think. That is

00:42:50

the end of my review.

00:42:51

So if you want to

00:42:54

keep keep going through a

00:42:56

tour of Latin America will

00:42:58

do perfectly we're looking for

00:43:05

drastic changes here in Latin

00:43:09

America, especially there's always the

00:43:10

Tennessee from the press to

00:43:12

label or a party by

00:43:15

right-wing or left-wing but that

00:43:18

I thought what I mean,

00:43:19

that's probably about three countries

00:43:27

Venezuela Mexico and Uruguay. I

00:43:30

will start with my home

00:43:31

country Venezuela. They are they

00:43:35

will hold a presidential elections

00:43:37

in Late July or early

00:43:38

stats was in on the

00:43:41

scale and if nothing is

00:43:43

set in stone in Venezuela

00:43:45

could really change the two

00:43:48

candidates we have is Nicolas

00:43:50

Maduro president run for a

00:43:54

third term machine combined with

00:43:57

les president Travis that will

00:43:59

be their sixth or seventh

00:44:01

in like 25 years. Now

00:44:03

extremely low popularity part absolute

00:44:08

control over all institutions and

00:44:11

communication part like traditional communication

00:44:14

platforms. Let me know when

00:44:17

is expecting a different outcome

00:44:18

other than enough. Italy manipulated

00:44:22

election. The opposition Runner is

00:44:27

a his name is Armando

00:44:28

Gonzalez is a former Ambassador

00:44:32

and a diplomat with no

00:44:34

prior experience in politics, or

00:44:36

at least not running for

00:44:38

office. He's just a single

00:44:40

the name on the ballot

00:44:42

Nicolas Maduro allow the opposition

00:44:44

to register. The real candidate

00:44:47

behind Gonzalez is Maria Corina

00:44:50

Machado, I mean she's been

00:44:54

in the opposition for like

00:44:55

roli from from day one

00:44:57

when when she took office

00:44:59

in 1999 massively Wanda position

00:45:04

primaries last fall with a

00:45:07

lot of support locally on

00:45:09

all an ulcer internationally course

00:45:12

because of all the face

00:45:13

you was barred from running.

00:45:15

She tried a replacement by

00:45:20

endorsing a professor or a

00:45:23

senior Professor call Karina. He's

00:45:25

given. Similarities with the name,

00:45:27

but she faced registration issues.

00:45:32

Totally the portal where you

00:45:33

were supposed to write for

00:45:35

your name to run for

00:45:36

elections wasn't working the last

00:45:38

3 days before the deadline

00:45:39

so they didn't let her

00:45:40

file. So ultimately she decided

00:45:44

to endorse Mando Gonzales, which

00:45:47

is basically the last That

00:45:49

remaining like non government-related name

00:45:52

that wasn't so basically is

00:45:55

going to be on her

00:45:56

behalf. My plan has always

00:46:03

been to take his opposition

00:46:05

that that's what they've been

00:46:06

doing successfully for like 20

00:46:09

years. So I mean nothing

00:46:12

that means anything that will

00:46:15

represent any meaning of threat

00:46:16

to our I'm actually surprised.

00:46:21

Gonzalez still on the ballot.

00:46:23

He might be barred from

00:46:24

running at some point between

00:46:26

now and the end of

00:46:27

July regardless, we we expect

00:46:32

the motor is going to

00:46:33

win the election or at

00:46:34

least of these for him

00:46:35

to announce that he won

00:46:36

the election with no institution

00:46:39

really contest in the result

00:46:40

but is very important letter

00:46:45

Maria Corina. Machado is getting

00:46:48

a lot of support. So

00:46:50

that's always a possibility for

00:46:52

change, but I've been saying

00:46:53

that for ten years and

00:46:53

nothing has happened. So I

00:46:55

would say that we should

00:47:01

expect you know, continuing political

00:47:03

social and economic economic instability

00:47:06

a very challenging environment for

00:47:09

the private sector more expropriation

00:47:12

and arbitrary measures in general

00:47:15

no protections for either domestic

00:47:18

or International or foreign investors.

00:47:20

That's what's going on in

00:47:23

the last 5-6 years a

00:47:26

lot of political instability hyperinflation.

00:47:31

The knowledge is combined is

00:47:34

just let you one of

00:47:34

the early that the most

00:47:36

severe humanitarian crisis that has

00:47:38

been recorded in in recent

00:47:39

times in Latin America over

00:47:41

6 million are refugees right

00:47:43

now. Even if I wanted

00:47:44

to have been forced to

00:47:46

flee the last five or

00:47:48

six years. So so we're

00:47:51

expecting just another Victory from

00:47:53

a little likely foul and

00:47:55

it's just a matter of

00:47:56

what it's going to be

00:47:57

crucial. Here's how the International

00:47:59

Community is going to approach

00:48:00

this if they give us

00:48:02

a similar approach to what

00:48:04

I did in 2018, but

00:48:06

you can leave the EU

00:48:07

and the United States government

00:48:08

as you know that US

00:48:09

government in Jose De imposed

00:48:12

sanctions on the government of

00:48:14

Venezuela designating the government of

00:48:17

Venezuela, but it's quite ugly

00:48:27

and I don't want to

00:48:28

go into the next portion

00:48:30

of our presentation about elections

00:48:32

in their Estates, but it's

00:48:33

still unclear at least how

00:48:35

that the current Administration is

00:48:36

going to approach these elections

00:48:40

on these results are they

00:48:41

they have a different I

00:48:43

would say they have a

00:48:44

different style or approach to

00:48:46

managing the situation in Venice.

00:48:49

That compared to the previous

00:48:50

administrations. We still get to

00:48:52

be seen in some of

00:48:55

the guys is still there.

00:49:01

So I would expand a

00:49:04

list of small list of

00:49:07

arbitration claim is coming in.

00:49:09

There's a long list of

00:49:11

potential claimants that are basically

00:49:13

waiting because of enforcement limitations,

00:49:16

but after that I think

00:49:18

in general, I mean it

00:49:19

would be a change for

00:49:25

the entire region. I will

00:49:30

make you something real quick

00:49:30

before I'm done with Venezuela

00:49:32

because you probably heard that

00:49:33

the name of one way

00:49:34

to a lot in previous

00:49:35

years or those who are

00:49:37

wondering where he is. I'm

00:49:38

here for those who don't

00:49:41

know here and of an

00:49:42

interim government that was recognized

00:49:45

by more than 50 countries

00:49:47

in the world that was

00:49:48

around me lyrics 2019 and

00:49:50

2023 or so, of course,

00:49:53

I mean after being unable

00:49:54

to remove odor from Power

00:49:56

his to control the military

00:49:57

and state government has mantle

00:50:03

on on one where do

00:50:05

is no longer in the

00:50:06

role is it was forced

00:50:09

to flee Venezuela avoid persecution

00:50:12

by the regime and he's

00:50:14

not supporting publicly my child

00:50:17

from this morning meeting yet

00:50:26

we have what is going

00:50:29

to be the largest election

00:50:30

ever New Mexico we have

00:50:33

in on June 2nd. We're

00:50:35

going to have traditional elections

00:50:38

Grand Avenue Congress federal government

00:50:40

has also local Representatives pretty

00:50:44

massive collection of the two

00:50:46

candidates. She's a former mayor

00:50:51

of Mexico City and she's

00:50:53

an ally of President Andres

00:50:56

Lopez obrador or at least

00:51:02

it seems to be on

00:51:04

the opposition side. You have

00:51:06

such as Galvez or she

00:51:08

represents another kind of historic

00:51:11

opposition Alliance that involves several

00:51:14

traditional parties in in Mexico,

00:51:17

like \$3 with the caveat

00:51:22

that I'm not and I'm

00:51:24

not an expert in in

00:51:25

politics and in Mexico, I

00:51:27

will acknowledge the complexity and

00:51:30

how diverse politics in general

00:51:33

are in in in Mexico,

00:51:36

but we could text back.

00:51:37

I mean in general I

00:51:39

would say if if the

00:51:41

chairman wins, which is what

00:51:44

seems to be expected. I

00:51:45

would I would expect at

00:51:48

least two. Any other policies

00:51:50

of President I'm low and

00:51:52

that means either keeping or

00:51:54

increasing our regulations and special

00:51:57

in key sectors like energy

00:51:58

also keeping our increasing public

00:52:02

spending and I think in

00:52:03

general. I was at a

00:52:05

challenging environment for foreign investors.

00:52:07

If if if Alvarez wins,

00:52:11

there might be some economic

00:52:14

reforms to reduce stating intervention

00:52:18

on to increase a private-sector

00:52:20

involvement, which is going to

00:52:22

be seen as probably since

00:52:24

probably but there could also

00:52:26

be some austerity measures post

00:52:28

covid 4 Hour post our

00:52:29

lease in response to the

00:52:31

last few years on there.

00:52:33

I'm low so that they

00:52:38

could be there always winners

00:52:40

and losers and when you

00:52:42

go to the extremes, it's

00:52:44

always a good idea for

00:52:45

what investment disputes. Before I

00:52:49

move on I want I

00:52:51

like the historical significance of

00:52:53

this election in Mexico, which

00:52:56

is said to like the

00:52:57

Mexicans first female president. And

00:53:01

this is how I think

00:53:01

I got a huge milestone

00:53:03

that he I think he's

00:53:05

very significant North Little League

00:53:07

even Mexico superheroes in general

00:53:09

in America's history of of

00:53:11

machismo and they're like in

00:53:12

the context of gender inequality

00:53:15

in the region. I am

00:53:16

hoping that this election will

00:53:18

symbolize that I met your

00:53:21

shift in the you know,

00:53:22

when the cultural and social

00:53:23

dynamics in the entire region

00:53:25

regardless of who is elected

00:53:27

or what was he very

00:53:30

quickly on on Uruguay. They

00:53:32

will be holding presidential elections

00:53:34

in late October. I understand

00:53:37

except that they're still waiting

00:53:38

some primary. So we don't

00:53:40

know what the final Runners

00:53:42

will be. But we're expecting

00:53:44

the two main bodies to

00:53:47

be the favorite sport. Selection

00:53:49

the party if they need

00:53:56

to be labeled somehow, I

00:53:57

think it would be more

00:53:58

towards the right wind side

00:54:00

and a position that is

00:54:03

more leaning towards the left

00:54:05

Wynne Ford. I would I

00:54:09

wouldn't expect any radical change

00:54:13

beyond what is normal in

00:54:15

any transition between the administration

00:54:17

are a thing for your

00:54:19

why does the key here

00:54:21

is the reality of Uruguay

00:54:23

has a strong like the

00:54:25

rest of our region has

00:54:27

a strong Democrat democratic tradition,

00:54:29

you know steady economic growth

00:54:31

high levels of transparency. No

00:54:35

corruption levels compared to their

00:54:36

way. So I would I

00:54:38

would say that your wife

00:54:39

wife are one of the

00:54:41

most stable countries in the

00:54:42

region on. That's you know,

00:54:44

that's music to clean Masters.

00:54:46

That's what I want to

00:54:48

hear. A nice shirt on

00:54:50

expat any any major changes

00:54:52

in after these elections? Thank

00:54:59

you so much at work.

00:55:00

So well the humor in

00:55:06

it. Thank you for the

00:55:08

organizers in like a panelist

00:55:09

and the guy is here

00:55:11

today. I'm embarrassed by the

00:55:12

wealth of knowledge and wisdom

00:55:14

at the panel here today

00:55:15

and not I'll just focus

00:55:17

on one election the u.s.

00:55:19

Presidential election on November 5th,

00:55:21

like many Americans. I may

00:55:24

be only qualified to talk

00:55:25

about developments here at home.

00:55:27

But I've learned a lot

00:55:29

today. That's far and I

00:55:31

asked yes I think is

00:55:32

a small issue obviously in

00:55:34

this sort of hugely important

00:55:38

elections in November, but it

00:55:40

is an important election for

00:55:41

ists for many reasons and

00:55:44

I will in my discussion

00:55:45

focused exclusively on policy towards

00:55:50

is dsf4 sample to negotiation

00:55:52

of agreements with ists. I

00:55:55

will not talk about regulatory

00:55:56

developments in others that anticipate

00:55:59

under a Biden or Trump

00:56:01

Administration So setting the scene,

00:56:04

where is I have CBS

00:56:06

now in the United States

00:56:07

in short is DS is

00:56:11

under threat if it came

00:56:13

a lightning rod clinical is

00:56:15

United States during the TPP

00:56:17

negotiations, the trans-pacific partnership negotiations

00:56:20

10 years ago, but at

00:56:23

the time I still had

00:56:25

pretty significant bipartisan support in

00:56:28

the United States. For example,

00:56:30

the president President Obama support

00:56:31

ID is d s n

00:56:33

t p p a he

00:56:34

and his administration thought that

00:56:35

the TPP agreement improved its

00:56:38

rules procedures and also the

00:56:40

substantive investment protection standards in

00:56:43

the agreement in a way

00:56:44
that balanced protection of investment

00:56:47
and governments important right to

00:56:50
regulate and also at the

00:56:52
time there were efforts during

00:56:53
TPP to strip its out

00:56:56
of the agreement. For example,

00:56:57
Senator Elizabeth Warren proposed an

00:56:59
amendment to the trade promotion

00:57:02
Authority which Legislative vehicle that

00:57:05
enabled that would have enabled

00:57:07
TV to be considered by

00:57:09
Congress had the president submitted

00:57:10
to Congress has failed in

00:57:15

the Senate 62-39 to the

00:57:18

Trump Administration that when President

00:57:20

Trump was elected in 2016.

00:57:22

He appointed Robert Lighthizer as

00:57:25

the US trade representative and

00:57:27

Ambassador Lighthizer was very skeptical

00:57:29

of the value of is

00:57:32

yes to the United States.

00:57:33

He was skeptical for both

00:57:35

defensive and offensive reason defensively

00:57:38

he objected in principle to

00:57:41

the United States that u.s.

00:57:43

Laws and regulations Court decisions

00:57:45

being subject to review by

00:57:47

an arbitration tribunal offensively. He

00:57:51

argued that enabling or providing

00:57:54

us investors with access to

00:57:56

us. Yes would incentivize us

00:57:59

companies to move jobs and

00:58:01

production abroad. It's working for

00:58:04

offensive and defensive reasons. He

00:58:05

was supposed he was determined

00:58:07

to significantly narrow access to

00:58:09

us dies in the US

00:58:11

Mexico Canada agreement usmca in

00:58:16

usmca. Isds between US and

00:58:19

Canada is gone. Also New

00:58:21

Mexico. And Canada is gone

00:58:22

in between the US and

00:58:23

Mexico access isds is significantly

00:58:26

narrowed us business community in

00:58:29

the private sector Fox rice

00:58:30

dies in a negotiation, but

00:58:33

largely in the shadows and

00:58:36

now fast-forwarding to today the

00:58:37

vitamin stration during the campaign

00:58:40

in the 2019 2020. Dividing

00:58:43

team indicated that the President

00:58:45

Biden would not support is

00:58:48

DS and in the last

00:58:50

three years has really been

00:58:52

no way to test that

00:58:53

position because the United States

00:58:55

is not engaged in in

00:58:58

traditional trade or investment Association

00:59:00

until it's never been a

00:59:03

policy issue on the table

00:59:06

to include isds in agreements

00:59:09

or not. Are there is

00:59:11

right now in addition to

00:59:13

the normal elevator on isds

00:59:14

should be included in new

00:59:16

agreements or not. There is

00:59:17

a ruling to paid right

00:59:18

now in the United States

00:59:19

around should this Administration strip

00:59:23

ists out of existing agreements

00:59:26

us has 53 or so

00:59:29

investment agreements with ICS. And

00:59:31

so Senator Warren and others

00:59:32

have proposed to the vitamin

00:59:35

station should unilaterally without Congress

00:59:37

essentially take ists out of

00:59:40

free trade agreements and to

00:59:42

terminate a bilateral investment treaties

00:59:45

that's an issue on the

00:59:46

table right now. Now looking

00:59:49
forward to the next Administration

00:59:50
the actual topic of discussion

00:59:52
the Biden fighting to or

00:59:54
Trump to the overall I'll

00:59:57
make is it will depend

00:59:59
on Personnel. We saw this

01:00:01
very clearly with Trump won

01:00:03
my own personal view. Whatever.

01:00:06
It's worth is that Ambassador?

01:00:07
Robert lighthizer was was a

01:00:11
singularly responsible for the shift

01:00:13
in US policy on isds

01:00:15
in usmca had there been

01:00:17

a different user it might

01:00:18

have been a different outcome.

01:00:19

And that's not to say

01:00:20

that that is unusual. I

01:00:21

think the individual choices the

01:00:23

cabinet members who are Trump

01:00:25

to or Biden to Whitbeck

01:00:27

would naturally have a lot

01:00:28

of influence and power over.

01:00:30

Will there be is DS

01:00:31

and US agreements or not.

01:00:33

Everything I say in the

01:00:34

framing of this issue is

01:00:36

will also depend upon how

01:00:38

much the private sector and

01:00:39

Company's push for SDS as

01:00:42

I mentioned during usmca. I

01:00:43

think the private sector had

01:00:45

a sense that the house

01:00:47

was on fire as I

01:00:48

like to say and usmca

01:00:49

that every trade has she

01:00:50

was up for debate and

01:00:52

companies had to sort of

01:00:53

pick their favorite children to

01:00:55

rescue and to let others

01:00:56

go and I think there

01:00:58

was a few that I

01:01:00

asked you asked for some

01:01:00

Industries is the number one

01:01:02

or number two issue, but

01:01:03

most Industries if her or

01:01:05

ties to other issues as

01:01:06

number one or number two

01:01:06

as a consequence in the

01:01:08

way that the sausage was

01:01:09

made its maybe didn't get

01:01:11

the attention that supportive supportive

01:01:13

ice chest with wanted it.

01:01:15

So again our companies going

01:01:16
to push for it. Don't

01:01:18
know then moving to the

01:01:19
sort of bulk of the

01:01:20
meat of this presentation. I

01:01:22
look forward to the Biden

01:01:23
to or Trump to Administration.

01:01:25
And I would say that

01:01:26
there are dark clouds over

01:01:28
all for those who want

01:01:30
to have a SDS and

01:01:31
agreements but there are silver

01:01:34
linings and possibilities for is

01:01:36
yes in my view. There

01:01:38

are pro isds arguments that

01:01:40

might appeal to both the

01:01:41

buy a two-income two teams,

01:01:43

but it would be a

01:01:44

fight. The first I'll talk

01:01:46

about the sort of bread-and-butter

01:01:48

issue of ists in new

01:01:50

agreements. Would Biden to or

01:01:53

Trump's who support negotiation inclusion

01:01:56

in the new agreements. The

01:02:00

dark clouds Ambassador Robert lighthizer

01:02:03

by mentioned whether he is

01:02:05

indeed ministrations or not is

01:02:08

viewed to be very influential

01:02:10

in in the Trump campaign

01:02:12

now and would be very

01:02:14

influential in a second Trump.

01:02:15

I mentioned his antipathy towards

01:02:18

ice. Yes, and now also

01:02:21

did a nemeton the on

01:02:22

Capitol Hill has changed in

01:02:24

2018 to 2019. He was

01:02:27

pushing to scale back is

01:02:29

DS on Capitol Hill there

01:02:31

were many mainstream sort of

01:02:33

pro-business Republicans on the hill.

01:02:36

I also Democrats on the

01:02:37
hill a lot of them

01:02:39
were gone. And so the

01:02:40
dynamic on the hill has

01:02:42
changed if a lighthiser lead

01:02:44
sort of lets get rid

01:02:46
of us dies ethos sort

01:02:49
of dominates the Trump Administration

01:02:50
in part to they won't

01:02:52
have the same kind of

01:02:53
Hill opposition. They face in

01:02:54
Trump won. Okay. So this

01:02:56
is against Trump. What are

01:02:58
the Silver Linings? There's an

01:03:00

argument that the dynamic and

01:03:01

usmca in the United States

01:03:03

Mexico. And Canada was fairly

01:03:05

unique the United States truck

01:03:07

ministration had concerns about the

01:03:10

movement of jobs and production

01:03:12

over to Mexico with Canada.

01:03:15

There. There is a really

01:03:17

interesting history of US Canada

01:03:19

investment disputes many more than

01:03:22

either side had anticipated. And

01:03:23

so I think in in

01:03:25

2017 2018 there was moving

01:03:27

on both sides to sort

01:03:28
of reassess the next negotiation.

01:03:30
You're not going to have

01:03:32
Mexico and Canada. You may

01:03:33
have other parties Silver Lining

01:03:35
the other point. I'll make

01:03:36
his Trump is transactional. He

01:03:38
likes to make deals. This

01:03:40
is his character. He makes

01:03:42
deals and in the past

01:03:43
in my experience as a

01:03:45
civil servant in the Trump

01:03:47
Administration, there was flexibility and

01:03:49
openness to considering is dies

01:03:51

in a deal I mentioned

01:03:53

in specifically the the US

01:03:56

Dalliance with Kenya there was

01:03:58

there was not a completed

01:03:59

free Trader, negotiation with Pena

01:04:00

in that Administration. But there

01:04:03

were extensive internal discussions and

01:04:04

also negotiations. And at the

01:04:06

time there were senior us

01:04:09

officials senior Trump Administration officials

01:04:11

who supported having some investor-state

01:04:14

dispute settlement in that have

01:04:16

to pay again noting that

01:04:17

Kenya is not Mexico. Kenya

01:04:19

is not Canada it we're

01:04:20

not the same concerns about

01:04:21

the movement of jobs production

01:04:24

to Kenya. There were concerns

01:04:25

about rule of law and

01:04:26

Kenya are concerns about Chinese

01:04:29

investment in Kenya and using

01:04:30

us investment is backed by

01:04:33

us. Yes as a bulwark

01:04:34

against Chinese investment. Can you

01:04:36

answer these ideas were on

01:04:37

the table? And I think

01:04:38

that some of the same

01:04:39

arguments around rule of law

01:04:41

around pushing back against for

01:04:44

example Chinese investors, but not

01:04:45

just may be attractive and

01:04:47

the second Trump Administration. In

01:04:50

a second by demonstration. So

01:04:52

the dark clouds, I think

01:04:53

the dark clouds and a

01:04:54

second Biden the ministration are

01:04:56

I would say significantly darker

01:04:58

than under a trump to

01:05:00

stop the past three years

01:05:02

have been I think dispiriting

01:05:05

for supporters of ists the

01:05:07

wild a Vitamix tray. She

01:05:08

has not had to negotiate,

01:05:09

you know, an investment agreement

01:05:11

and had to make the

01:05:12

decision of including is yes,

01:05:14

we're not the president and

01:05:17

his staff have been very

01:05:19

negative around using tools like

01:05:21

isps to promote us investment

01:05:23

until I think the the

01:05:24

clouds are dark here again

01:05:26

Personnel will be key but

01:05:28

none the less. So the

01:05:30

Silver Linings second-term Democratic president

01:05:35

when you look at history,

01:05:35

look at President Obama's second-term

01:05:39

democratic presidents tend to be

01:05:40

more internationalist in their approach

01:05:42

biting himself is is may

01:05:45

decide to let his inner

01:05:46

globalist shine and second term.

01:05:50

Including President Biden reverse their

01:05:52

positions regularly. It happened last

01:05:54

week. You may follow the

01:05:55

China section 301 Terrace which

01:05:58

the president not only maintain

01:06:00

but decided to increase measurably

01:06:02

go back and look at

01:06:03

what President Biden said about

01:06:05

the China section 301 Terrace

01:06:06

in 2019 more harsh on

01:06:10

301 Terrace. Then I'm going

01:06:14

to plan on making I

01:06:15

think this is important is

01:06:16

there is I think of

01:06:17

pro is yes narrative that

01:06:19

may appeal to whoever is

01:06:22

in the Biden Administration part

01:06:23

2. I'll mention argument us

01:06:26

competitiveness us investors may not

01:06:30

have I access isds competing

01:06:32

with International investors in third

01:06:35

jurisdiction that do have access

01:06:36

isds that may resonate rule

01:06:40

of law arguments May resonate

01:06:41

with fighting to protecting Investments

01:06:45

abroad that are critical to

01:06:46

the green transition for sample

01:06:48

investments in critical. Mining, I

01:06:51

may be persuasive to a

01:06:52

Biden to team and finally

01:06:54

Biden's you have the chance

01:06:55

to to reshape or remake

01:06:57

ists and its vision and

01:06:59

there are many different ways

01:07:00

that the Byzantine could decide

01:07:02

to do. So in in

01:07:04

elevating the importance of for

01:07:06

example environmental in labor protection

01:07:08

in the substantive rules other

01:07:10

procedural or rather a ice

01:07:13

catcher forms are tenable unimaginable.

01:07:15

I think I may be

01:07:17

over time but just in

01:07:19

the in the closing but

01:07:20

this discussion has been focused

01:07:22

on will there be in

01:07:24

a Biden or Trump to

01:07:26

new negotiations with ists? I

01:07:29

do want to highlight a

01:07:30

few separate discreet issues that

01:07:33

either of Biden or Trump

01:07:34

you will face that will

01:07:36

force them. Perhaps to address

01:07:38

is DS1 is the newest

01:07:40

update contacts. And that is

01:07:42

that folks who follow the

01:07:43

usmca may know that in

01:07:45

2026 under the treaty under

01:07:48

the agreement. There is a

01:07:49

joint review process will take

01:07:52

place where Mexico Canada and

01:07:54

the United States will sit

01:07:55

down and discuss the agreement.

01:07:57

There's a possibility that it

01:07:59

could be terminated. We can

01:08:00

talk about all the details

01:08:01

of that and I think

01:08:02

what the volume is rationed

01:08:04

will hear from many US

01:08:07

investors in Mexico in particular

01:08:09

is dissatisfaction in disappointment in

01:08:13

a range of sectors. They

01:08:16

will tell the administration that

01:08:17

the isds. The sort of

01:08:19

narrow is DS allowed under

01:08:21

usmca has not been effective.

01:08:22

As far as I know.

01:08:23

There's not been any is

01:08:26

DS cases brought by us

01:08:28

investors or Mexican investors under

01:08:30

these new USMC is dies

01:08:32

rules and there's also not

01:08:34

been any state to state

01:08:35

science elements of the United

01:08:36

States has the ability under

01:08:37

usmca to initiate claims that

01:08:40

the government against Mexico or

01:08:42

Canada on investment treaty issues.

01:08:44

They've not done. So since

01:08:46

I think the Biden team

01:08:49

will hear that from us

01:08:50

investors in the Biden team

01:08:52

or the Trump team. I

01:08:53

should say will have to

01:08:54

assess do we revisit the

01:08:56

question of narrow for skinny

01:08:58

is DSN usmca or not.

01:09:01

I will say that sometimes

01:09:02
from my perspective you need

01:09:03
to do something to appreciate

01:09:05
its value and it maybe

01:09:06
the after in 2026 both

01:09:10
divide into Trump teams will

01:09:11
take a fresh. Look at

01:09:13
this issue two more. Rita

01:09:16
shoes on social work degree.

01:09:18
This is a forum where

01:09:19
folks may know there is

01:09:21
a discussion around reform of

01:09:23
is dies rules including the

01:09:25
notion of creating a multilateral

01:09:27

investment Court. I think Mark

01:09:29

mentioned or a and or

01:09:32

a multilateral pellet mechanism. What

01:09:35

would Biden or Trump do

01:09:37

you hear in this is

01:09:37

important because I based on

01:09:39

the schedule in a 325

01:09:43

about a year ago year

01:09:44

from now the working group

01:09:47

is slated to make a

01:09:48

decision on the investment court.

01:09:50

So the next Administration the

01:09:52

United States will decide its

01:09:53

position in the working group

01:09:54

on investment cord for an

01:09:56

appellate mechanism. It's July 26th

01:09:58

in my view. Neither Biden

01:10:01

to where Trump to is

01:10:03

likely to support either International

01:10:06

Investment court or an appellate

01:10:07

mechanism for a number of

01:10:09

reasons, including the most importantly

01:10:11

the US experienced in the

01:10:14

WTO around the tub. What

01:10:16

mechanism and I would say

01:10:18

that again having served in

01:10:19

the in the Trump Administration

01:10:20
and also the Obama Administration.

01:10:24
I know that both sides

01:10:25
had very serious concerns with

01:10:27
a multilateral investment Court viewing

01:10:30
it for sample is entrenching

01:10:31
a system in sitting on

01:10:33
a permanent status that they

01:10:34
already had difficulties with and

01:10:36
also questioning the head of

01:10:38
democratic accountability of a permanent

01:10:40
Court. One last discrete issue

01:10:43
is that the TC energy

01:10:45
case which is the ongoing

01:10:47

exit case involving the Keystone

01:10:50

XL pipeline 15 billion dollar

01:10:52

claim brought by Katie and

01:10:53

Company against the TC energy

01:10:55

when you look for that

01:10:59

in that arbitration is on

01:11:01

going right now looking at

01:11:03

Trump to my assumption is

01:11:05

that President Trump would restore

01:11:06

TC energy use permit to

01:11:09

construct the Keystone Pipeline. We

01:11:12

don't know this but that

01:11:14

is what he did the

01:11:15

first time around on the

01:11:16

first day in office. He

01:11:17

reverse the Obama administration's decision

01:11:20

to to to terminate that

01:11:23

permit until my assumption informed

01:11:26

assumption would be the Trump

01:11:27

would restore that permit that

01:11:30

would get rid of the

01:11:31

arbitration potentially. If you ever

01:11:33

tration is ongoing at the

01:11:34

time with respect to the

01:11:36

vitamin stration that is extremely

01:11:38

unlikely that they would decide

01:11:40

to reverse its position. And

01:11:43

so again if you arbitration

01:11:45

is ongoing and during the

01:11:46

biking to it's like that

01:11:48

arbitration would sort of go

01:11:49

forward jurisdiction of the merits

01:11:51

and I just I like

01:11:52

this and that in my

01:11:53

closing because this case I

01:11:55

think will be critical to

01:11:56

the next generation of US

01:11:58

policy making around investor-state certainly

01:12:01

if the US were to

01:12:02

lose this case, you know,

01:12:03

15 billion dollar claim touching

01:12:05

on your very sensitive public

01:12:07

policy space in the view

01:12:09

of certain folks that could

01:12:13

mean United States heavily against

01:12:15

ice chest in the future

01:12:16

if they were to win.

01:12:17

We'll have to see but

01:12:20

all of us are in

01:12:20

return to the great thank

01:12:23

you very much has been

01:12:25

around the world tour and

01:12:28

as Lauren said that I

01:12:29

feel so much better on

01:12:32
everything that's happening and we

01:12:34
see so many opportunities for

01:12:36
Change and transition or maybe

01:12:39
sometimes we're over we're over

01:12:41
selling those opportunities. Maybe things

01:12:43
won't be as dramatic as

01:12:45
we are happy to open

01:12:50
to questions from the floor.

01:12:53
I think we can take

01:12:54
questions online. Although I admit

01:12:56
I'm not entirely sure how

01:12:57
I guess who musing the

01:12:59
chat function and so so

01:13:02

happy too happy to hear

01:13:04

from from the rest of

01:13:06

you been listening. If you

01:13:06

have questions about some of

01:13:07

the particular comments that they

01:13:09

made about elections or four

01:13:10

or overall Trends Crossing these

01:13:13

different areas of the world.

01:13:16

any takers What's a share

01:13:23

of microphone with hi everyone?

01:13:28

My name is monia. I

01:13:31

have a question for whomever

01:13:33

12 to take it but

01:13:35

it could be forget Lila

01:13:36

taken into consideration that in

01:13:40

Latin America. The defense of

01:13:42

the state may change if

01:13:44

there is an election cousin's

01:13:47

baby. I do go schedule

01:13:48

estado. It doesn't change right

01:13:49

would you be let's say

01:13:53

if there's elections in 34

01:13:55

months. I want to find

01:13:56

my request for arbitration. Would

01:13:58

I be better off waiting

01:13:59

for a new defense ever

01:14:02

look startled to come in

01:14:04
and maybe there will be

01:14:05
more sensitive to my case

01:14:07
or would you say it's

01:14:09
better to file very quickly

01:14:11
with the defense of the

01:14:12
last I'll do that, you

01:14:14
know is maybe a bit

01:14:15
more mature and has the

01:14:17
has its strategy or any

01:14:19
other team still there? Thanks

01:14:26
for the question. I I

01:14:29
would save you what's best

01:14:30
for your claim and for

01:14:33

your client and certainly taking

01:14:36

a consideration any periods of

01:14:38

limitation waiting on the right

01:14:43

defensive. Could put you into.

01:14:48

Reading tea leaves territory and

01:14:53

no that's not really a

01:14:55

place you want to be.

01:14:55

So let's say that you

01:14:58

brought your request for arbitration

01:15:00

or you you file the

01:15:02

notice with the current defensive

01:15:05

style. Well, it's going to

01:15:07

you know, it will change.

01:15:08

I don't I don't think

01:15:09

there would be even if

01:15:11

you think that you could

01:15:12

Garner some sort of benefit

01:15:14

from a future defense unit

01:15:17

State Defense unit. You will

01:15:22

you will likely get that

01:15:23

if there were some benefit

01:15:27

you could Garner from the

01:15:29

incumbents unit. It will be

01:15:33

a short left. Right? So,

01:15:36

I mean, I think it's

01:15:38

I think it's a really

01:15:38

interesting question to consider and

01:15:41

then certainly something to plop

01:15:44

into your risk-benefit analysis, but

01:15:48

in the end The defense

01:15:51

unit that you get is

01:15:53

going to be the defense

01:15:54

unit that you get and

01:15:56

most likely your there's not

01:16:02

going to be much that

01:16:03

you can do to really

01:16:05

time that in the best

01:16:08

way possible. You know, it

01:16:11

could be in turn Administration.

01:16:15

I mean, you know, I

01:16:18
suppose were were talking mostly

01:16:20
about Argentina here. You know

01:16:24
Argentina's defense unit has been

01:16:26
known for being in a

01:16:28
particularly aggressive in its defense

01:16:31
of the state. Will that

01:16:32
change under relay? I don't

01:16:36
know interesting interesting to consider,

01:16:39
you know, will they be

01:16:41
more likely to settle? I

01:16:44
don't know that would be

01:16:45
parting with a lot of

01:16:48
tradition virtually no state in

01:16:52

the world settles investment arbitrations

01:16:55

or certainly they don't settle

01:16:56

them on a very regular

01:16:58

basis. So even if you

01:17:00

do see a significant Administration

01:17:03

change from one party to

01:17:06

the other and the new

01:17:07

party is known as being

01:17:09

much more pro-business and maybe

01:17:13

for that reason might actually

01:17:15

settle with investors eventually the

01:17:19

political considerations around that kind

01:17:22

of come in it seems

01:17:24

almost every time and and

01:17:28
and really hinder us from

01:17:30
openly engaging in settlement negotiations

01:17:33
with another party. So I

01:17:39
would I would file your

01:17:41
claim when it makes most

01:17:42
sense for the client and

01:17:43
not really consider whether there's

01:17:46
an Administration change. Just want

01:17:54
to really follow you can

01:18:02
fall asleep set the rolling

01:18:04
up the drawbridge and and

01:18:06
and especially your comments are

01:18:08
art to that effect as

01:18:10

well as then now, they're

01:18:12

threatening to pull out of

01:18:12

European convention on human rights.

01:18:14

So just another example about

01:18:16

what I don't have a

01:18:17

read of his work your

01:18:18

starter is on on International

01:18:21

Best Buy reputation. Wondering if

01:18:23

you can give some insight

01:18:25

into the Yes, this is

01:18:30

a think perception which is

01:18:34

shared by a lot of

01:18:35

observers and no so I'm

01:18:39

from another contacts because of

01:18:52

his political Evolution, but Amy

01:18:54

is a pragmatist and he

01:18:57

is doing he is a

01:19:00

little refining his policy proposals

01:19:03

are significantly over if you

01:19:06

compare what he is saying

01:19:08

you will do now with

01:19:10

what he was elected on.

01:19:12

And as soon as the

01:19:15

leader of the Labour party

01:19:16

a few years ago is

01:19:17

the situation is quite different

01:19:18

and I think his instincts

01:19:22
are the desert and internationalist.

01:19:27
Welcome to invest in arbitration.

01:19:29
I think frankly there's a

01:19:31
there's a sense that they're

01:19:34
bigger and fish to fry

01:19:36
and this is not so

01:19:38
much on his agenda negotiating

01:19:43
trade agreements and investment is

01:19:45
when something restaurant rhaetian and

01:19:47
my concern is that it

01:19:50
is easy to to concede

01:19:53
M on on isds. It's

01:19:57
it has a signaling effect

01:19:58

to in particular kind of

01:20:02

the left wing of the

01:20:03

party on Saturday. So I

01:20:05

think there's a feeling particularly

01:20:07

on the basis of a

01:20:09

europe-wide sentiments entirely that we

01:20:12

don't we don't need it.

01:20:15

It doesn't do anything and

01:20:18

neither is that is something

01:20:20

which is believed in reality

01:20:22

or not. I think it's

01:20:22

easy to just conceived that

01:20:24

what I know is that

01:20:26

there's a Distance of concerted

01:20:29

loving efforts from Civil Society

01:20:32

to know just preclude the

01:20:36

negotiation of investment of attraction

01:20:38

in your agreement with those

01:20:39

able to terminate investment treaties

01:20:42

between the UK and other

01:20:44

states M A little pressure

01:20:49

there. I think even though

01:20:54

that the current government position

01:20:56

visit negotiation with Canada suggest

01:20:58

the dessert station to currently

01:21:03

the UK Canada agreement, which

01:21:05

is essentially the same agreement

01:21:09

as the EU, the agreement

01:21:11

that has eyes. Yes, but

01:21:13

they modernized post brexit UK

01:21:16

kind of agreement will not

01:21:18

include so I think that

01:21:20

is an indication as to

01:21:22

where things are going but

01:21:24

it does not mean that

01:21:25

the drawing of the the

01:21:27

bridge will continue in the

01:21:30

same way that that has

01:21:30

been unfolding with the current

01:21:32

government after the elections department,

01:21:39

San Antonio. Now you can

01:21:50

hear my question is is

01:21:54

is a related to or

01:21:58

or based on a premise

01:21:59

that I really I really

01:22:00

want you to prove me

01:22:01

wrong like based on the

01:22:04

elections that you're seeing Etc.

01:22:06

So it seems that that

01:22:08

for the past 10 15

01:22:09

years we have been going

01:22:11

on at Randall's off of

01:22:12

increase that protectionism in the

01:22:17

u.s.a. Trump came and then

01:22:22

came by them and that

01:22:25

protectionism continued and that seems

01:22:30

to be the trend in

01:22:32

the world in general. And

01:22:36

it seems also that that

01:22:38

there is a slight tendency

01:22:40

also to get away from

01:22:41

from rule-based dispute resolution and

01:22:45

More in to diplomacy rule

01:22:48

diplomacy based dispute resolution. Have

01:22:53

you seen something different from

01:22:55

everything that you you have

01:22:57

seen and I really wish

01:22:59
that you say. Yes, you

01:23:02
are wrong sincerely any takers.

01:23:12
Yes, you were wrong. But

01:23:15
I think we observe my

01:23:17
practice and both in government

01:23:19
and an outside of government

01:23:21
to observe this. An increase

01:23:24
in this order protection isn't

01:23:25
that you're speaking of but

01:23:27
in the spirit of dark

01:23:29
clouds & Silver Linings a

01:23:31
silver lining that you might

01:23:32
want to think about is

01:23:33

I've been a delegate in

01:23:34

working for 3 for too

01:23:38

long for seven years since

01:23:39

the beginning of the negotiations

01:23:40

and I've always been impressed

01:23:42

in that process. This is

01:23:43

a process that is singularly

01:23:45

about reforming investment is DSL

01:23:50

procedures, right? And for the

01:23:53

seven-year. There's been an enormous

01:23:55

expense of time and effort

01:23:57

and the capital in trying

01:24:00

to improve the system. And

01:24:02

this is in the in

01:24:04

the global north-south every continent

01:24:06

except one baby. And I

01:24:09

think that to me that

01:24:10

process is a I don't

01:24:12

want to go too far

01:24:13

and I want to say

01:24:13

it's an endorsement of us

01:24:15

dies, but I do think

01:24:16

it's a recognition of the

01:24:18

value of the dispute settlement.

01:24:19

That should be much easier

01:24:20

if he's government rather than

01:24:22

see Spend enormous time and

01:24:25
resources negotiating Improvement easier for

01:24:29
these governments to denounce their

01:24:30
treaties or to step out

01:24:32
of the system and there

01:24:33
are states. Obviously, they're doing

01:24:34
that with the Baltic states

01:24:35
see the system is valuable

01:24:37
and want to improve it.

01:24:38
It's an evolutionary system. It's

01:24:39
a relatively new system in

01:24:41
the scheme of international law

01:24:42
and relations into that is

01:24:44
when I when I having

01:24:46
difficulty sleeping tonight thinking about

01:24:47
our practice investment treaties ice.

01:24:50
Yes, I cover myself with

01:24:52
that with with the process

01:24:54
than the commitment to be

01:24:54
states of Sean improving the

01:24:57
system. Well, I think I

01:25:03
do think if there is

01:25:05
a silver lining certainly you

01:25:07
might find a bit in

01:25:08
in Latin America with respect

01:25:10
ice. Yes, that's that's going

01:25:12
to be a region where

01:25:13

where it is still alive

01:25:15
and well with a few

01:25:16
exceptions of some Steve some

01:25:18
Latin American states pulling out

01:25:20
of of ifes agreements with

01:25:26
respect to protection as you

01:25:28
know, and I labeled it

01:25:29
as populism that has a

01:25:31
nationalism in protectionism Bend. That

01:25:34
seems to be Universal but

01:25:37
you know what the next

01:25:40
question is. Will it go

01:25:42
beyond just just have to

01:25:46
listen to protectionism. And are

01:25:48

you going to see States

01:25:49

withdrawing or rescinding their support

01:25:54

for for is DS and

01:25:56

at least so far in

01:25:58

Latin America most most countries

01:26:02

are are hanging on and

01:26:04

and I wonder if if

01:26:06

in the United States, it's

01:26:08

just going to remain out

01:26:11

of stasis. Perhaps no more

01:26:14

do treaties with us. Yes,

01:26:16

but we're just going to

01:26:17

maintain the status quo. I

01:26:20

agree with Lauren but you

01:26:24

know, we're probably not going

01:26:26

to see much support for

01:26:28

it, but I don't but

01:26:30

I don't see the United

01:26:30

States enjoying its tax drastically

01:26:36

now depending on the incoming

01:26:38

Administration. And then you start

01:26:43

to wonder if you have

01:26:45

a if you have a

01:26:46

traffic to vs. Biden to

01:26:49

come to would be you

01:26:54

know up an administration led

01:26:55

by someone who's not particularly

01:26:57
fond of the rule of

01:26:58
law. So, you know, he

01:27:00
likes to make deals not

01:27:02
not so good on the

01:27:04
rule of law concept. So

01:27:05
what happens in that Administration

01:27:07
could actually foments a number

01:27:10
of investment issues and I

01:27:14
I don't think that the

01:27:17
United States is going to

01:27:18
allow of of all of

01:27:21
these investment agreements, but but

01:27:23
who knows Anybody have any

01:27:31
other glimmers of hope that

01:27:34
lie no one last question

01:27:37
may be a minute or

01:27:39
two left. Alright, well then

01:27:43
maybe we will wrap up

01:27:44
we can Circle back next

01:27:47
year and see if any

01:27:48
of you understand forgot bring

01:27:50
ostentation was correct and see

01:27:52
where we've landed. I want

01:27:55
to thank you more and

01:27:56
miss you very brave and

01:27:58
you know got to the

01:28:00

heart of this matter in

01:28:01

our panelists also for excellence

01:28:04

in their assessments. I think

01:28:06

we'll be back next year

01:28:07

and see how this went.

01:28:09

So thank you. I asked

01:28:11

the group here to give

01:28:13

thanks to our panel has

01:28:15

a nice round of applause.

01:28:20

We are going to take

01:28:21

a break now for about

01:28:22

a half-hour and we have

01:28:23

very practical panel coming up

01:28:25

at 3 on drafting memorials,

01:28:28

and I'd invite folks to

01:28:31

come back in the half-hour

01:28:33

and thank you very much

01:28:35

for everyone attending online and

01:28:38

here in person. We do

01:28:40

have another few days of

01:28:42

programs or tomorrow morning. We

01:28:44

have a program from Singapore

01:28:46

than one from India, and

01:28:49

then on Wednesday and Thursday,

01:28:51

we complete with a program

01:28:53

from Warsaw and then from

01:28:55

Bogota, so we have a



01:28:57

busy conference still to complete,

01:28:59

but we're about halfway there,

01:29:00

and this was a great

01:29:02

opportunity to hear from the

01:29:05

great group of folks. So

01:29:06

thank you very much and

01:29:07

will see you at the

01:29:08

next conference. Thanks word. welcome

00:00:00

to hello everyone and welcome

00:00:07

to World arbitration update. Washington

00:00:10

d.c. We've had a great

00:00:13

last few days. We spent

00:00:16

the first two days of

00:00:18

wild this year in Beijing

00:00:21

fantastic event, really appreciated the

00:00:26

support of the Beijing arbitration

00:00:28

Commission in the Beijing International

00:00:29

arbitration Center fantastic group of

00:00:33

supporters and sponsors and great

00:00:35

speakers. We had eight panels

00:00:37

in Beijing this morning. We

00:00:39

had two additional panels and

00:00:41

Doha thanks to the organizers

00:00:43

there that went really well

00:00:45

and we very much appreciate

00:00:46

their efforts as well great

00:00:49

speakers great topics. So we're

00:00:53

here and we're here in

00:00:55

Washington and We have a

00:01:02

panel here today, which is

00:01:05

continuing on with the great

00:01:09

quality while this year. We

00:01:14

are graced with a good

00:01:18

group to address the topic

00:01:19

titled impact on investment arbitration

00:01:21

of the Us and other

00:01:22

countries elections in 2024. So

00:01:25

getting down into the Weeds

00:01:26

on some political and legal

00:01:29

developments and and what that

00:01:31

what will happen play or

00:01:35

not, but maybe in the

00:01:37

next year, so it's my

00:01:39

pleasure to introduce Marilyn Carlson

00:01:42

who is an independent arbitrator

00:01:43

here in Washington d.c. Marin

00:01:46

is the former co-chair of

00:01:48

the arbitration group sidley Austin.

00:01:52

She's now arbitrating. I'm doing

00:01:55

very well she is Professor

00:01:59

at the GW here in

00:02:01

Washington DC and is being

00:02:03

one of the leaders of

00:02:04

the arbitration community and in

00:02:06

Washington and really appreciate the

00:02:08

Marin you you're taking this

00:02:10

task on moderating such an

00:02:12

unruly group. So I let

00:02:14

me pass the microphone to

00:02:15

you and let's get started.

00:02:18

Thank you so much again,

00:02:19

and you'll first of all

00:02:21

on behalf of our entire

00:02:22

panel our thanks to World

00:02:24

arbitration update for bringing us

00:02:25

together for Ian and Jose

00:02:28

Antonio for thinking of us

00:02:31

and and bringing the entire

00:02:32

idea of the world arbitration

00:02:34

update conference to fruition and

00:02:36

really making this topic globally

00:02:39

accessible and I think this

00:02:41

conference does that in a

00:02:42

way that's that you others

00:02:43

can and do this panel

00:02:46

was inspired by the fact

00:02:49

that in 2024. We are

00:02:53

expecting to see elections in

00:02:55

at least 64 countries and

00:02:58

that that represents almost 60%

00:03:01

of the world's population is

00:03:02

going to have an election

00:03:03

this year of some some

00:03:06

level of significance of those

00:03:08

elections. Do I have on

00:03:10

the screen a list of

00:03:12

the elections in question as

00:03:16

well? Directions some of them

00:03:19

of course of general elections.

00:03:20

Some of them are our

00:03:22

only legislative elections. Some of

00:03:23

them are presidential elections 10th

00:03:25

on the system, but those

00:03:27
elections are are are happening

00:03:31
in our life. No matter

00:03:32
what we do. They're going

00:03:32
to have massive political impact,

00:03:34
but we think they will

00:03:35
also have an impact on

00:03:36
the world of international arbitration

00:03:38
and especially on the world

00:03:39
of investment treaty arbitration. So

00:03:42
far this year, we are

00:03:43
up to the ones in

00:03:45
yellow you'll note India's ongoing

00:03:47
so I haven't given them

00:03:48

a yellow market and the

00:03:50

Dominican Republic with yesterday. So

00:03:53

this is a very hot

00:03:54

topic a constantly moving Target

00:03:56

run as we learned over

00:03:59

the weekend is going to

00:04:00

have to have another election

00:04:01

but we've we've gone through

00:04:04

a number of them and

00:04:05

we have more to come

00:04:06

we obviously this is a

00:04:08

very long list and so

00:04:09

we're not going to try

00:04:10

to cover every single country

00:04:11
on it today. But we

00:04:14
are we have a great

00:04:15
panel assembled that's going to

00:04:17
get us through at least.

00:04:18
The ones in Red so

00:04:21
we will we will ourselves

00:04:22
be covering a large swath

00:04:23
of the world's population. And

00:04:25
for that task we as

00:04:27
a people assembled a great

00:04:28
Channel and to let me

00:04:30
just very brief introductions. Although

00:04:32
as many of them are

00:04:33

going to be known to

00:04:33

you already and others you

00:04:35

will be able to find

00:04:36

out more about if you

00:04:37

can tell their LinkedIn profiles

00:04:39

in the like so I

00:04:40

won't go into great except

00:04:41

I'm about there first to

00:04:43

my immediate right? We got

00:04:45

pushed up pushed. Our cash

00:04:47

flow is an Indian qualified

00:04:49

advocate in Washington DC and

00:04:51

llm graduate from Georgetown University

00:04:53

and previously worked as a

00:04:56

case manager at the Mumbai

00:04:58

Center for international arbitration and

00:05:00

his Council and commercial litigation

00:05:01

and arbitration disputes in India,

00:05:03

which was going to lead

00:05:05

us off with an overview

00:05:06

of the elections in some

00:05:07

of the world's most populous

00:05:08

democracy is in in South

00:05:10

Asia. Then his right is

00:05:14

Mark Constantine. It is he's

00:05:16

a doctoral candidate and visiting

00:05:17

lecturer King's College in London

00:05:19

with a full scholarship from

00:05:22

KCl Center of European law.

00:05:23

I got to know some

00:05:26

of his work because he

00:05:27

serves as the senior editor

00:05:28

of the appeal of the

00:05:30

European Federation for investment law

00:05:32

in arbitration blog and he's

00:05:34

a qualified lawyer in Greece

00:05:35

in the EU and registered

00:05:37

at the Athens far we've

00:05:39

given Mark the small task

00:05:40

of covering. All of your

00:05:41

right is Galen Gering Flores

00:05:49

who's a partner and Global

00:05:50

co-chair of international arbitration at

00:05:53

Hughes Hubbard & Reed here

00:05:54

in Washington DC and she

00:05:55

has over 25 years of

00:05:57

experience representing both multinational corporations

00:05:59

and sovereign states in in

00:06:02

commercial and investment arbitration and

00:06:05

she is also co-hosts of

00:06:07

the Excellence of the tee

00:06:08

podcast. Is he an international

00:06:10

arbitration? brought to you by

00:06:13

the DC Bar International Community,

00:06:15

which I highly recommend some

00:06:19

tea countries in Central America

00:06:20

and the timing back in

00:06:22

when we get to the

00:06:22

United States presentation color there

00:06:25

and I'm going to her

00:06:26

right you got a daughter

00:06:27

Madison has counseling Crowell &

00:06:29

moring International dispute resolution group

00:06:32

with Pickler focus in Latin

00:06:33

America other based here in

00:06:35

Washington DC and he concentrates

00:06:37

his practice on International arbitration

00:06:39

and litigation matters for clients

00:06:41

in both investment and Commercial

00:06:43

disputes and also has experience

00:06:45

representing foreign and domestic clients

00:06:47

including victims of terrorism in

00:06:49

sovereign immunity litigation elections in

00:06:54

Venezuela and Mexico among other

00:06:55

countries in Latin America, and

00:06:58

then as far as far

00:07:01

as if he's a partner

00:07:04

at wilmerhale in Washington specializing

00:07:06

in dispute resolution under trade

00:07:08

agreements and investment treaties, he

00:07:10
had a 10 year at

00:07:12
the office of the US

00:07:13
trade representative where he served

00:07:16
as the US lead negotiator

00:07:17
for the investment chapter of

00:07:19
the US Mexico Canada agreement

00:07:21
usmca the replacement to NAFTA

00:07:25
and played a major role.

00:07:26
In other key trade negotiations

00:07:28
under the Obama and Trump

00:07:29
administration's Lauren seen multiple, very

00:07:33
different us administration's from the

00:07:35
inside. So we've given him

00:07:36

the challenge of the u.s.

00:07:37

Election. No small task Mexico

00:07:42

and Canada, but we we

00:07:48

are well armed with great

00:07:49

panel to do so until

00:07:51

I suggest we just go

00:07:52

ahead and launch it so

00:07:54

sure that we paid for

00:08:02

making this happen and I

00:08:04

think it is quite timely

00:08:07

and lots of time. Jump

00:08:13

straight into some of the

00:08:14

Salvation democracy switch have gone

00:08:17

to elections and one of

00:08:18

them is currently back in

00:08:24

is going on on the

00:08:25

seven faces and faces on

00:08:27

the results are going to

00:08:29

come out on 4th of

00:08:30

June but really happens in

00:08:35

this address focus on some

00:08:38

of the key changes that

00:08:39

could potentially impact Investments and

00:08:42

investors and of course the

00:08:43

ongoing dispute and treaty negotiations

00:08:46

letting guys having a adult

00:08:48

counterparts assuming that you know,

00:08:51

we're going to have the

00:08:52

present Administration to continue for

00:08:55

a third time then, you

00:08:58

know, we're not going to

00:08:58

expect a different shift and

00:09:00

regulated top leadership change. A

00:09:12

few key changes that occur

00:09:13

and I'm supposed to be

00:09:16

looking at some of the

00:09:17

sectors such as space mining

00:09:20

semiconductor manufacturing and also put

00:09:24

an airport for such a

00:09:26

Contraption to do a few

00:09:28

things that could impact our

00:09:31

because that has been seen

00:09:33

as one of the driving

00:09:34

force of nature capital inflow

00:09:36

and development in the region

00:09:38

to be focusing on NASA.

00:09:49

But of course, we have

00:09:50

our own NASA time in

00:09:52

India now that we have

00:09:54

a hundred percent FBI them

00:10:00

could be a significant amount

00:10:02

of investment coming in in

00:10:04

the manufacture of satellite spectrum

00:10:07

allocation and also to Cycle

00:10:09

Systems in itself. That being

00:10:12

said moving quickly to others

00:10:14

which I don't think much

00:10:16

of time but on the

00:10:17

VIP landscape as most most

00:10:21

of y'all know India has

00:10:23

dominated almost 70 plus introduced

00:10:26

in 2016 as a major

00:10:32

shift from the previous model.

00:10:33

Now that being said India

00:10:35

is also trying to renegotiate

00:10:37

with former partners and some

00:10:40

of them are mine and

00:10:42

I have about 6 or

00:10:45

7, but the one that

00:10:46

is quite recent 11 for

00:10:49

today's discussion as in the

00:10:51

wake of Elections being announced

00:10:53

India signed a treaty with

00:10:56

UAE are which is one

00:10:57

of the very strong trading

00:10:59

partners of India now just

00:11:01

happened in on 13th February

00:11:03

and is not out yet.

00:11:04

But it seems like this

00:11:06

has been an extraordinary effort

00:11:08

on a very short span

00:11:09

of time. On 10th, March

00:11:12

India sign another treaty does

00:11:14

not having is yes. I

00:11:16

can do that later Association

00:11:19

comprising of Switzerland Iceland. Even

00:11:24

this treaty is something that

00:11:26

you know very much to

00:11:27

live watching on how best

00:11:28

cross-border trade investment could promote

00:11:32

but the unfortunate fortunate which

00:11:36

depends on what side of

00:11:37

the car and you are

00:11:37

as it does not have

00:11:38

a nice beer stores. Now,

00:11:40

this is something expected from

00:11:43

Indian Trading partner, you know,

00:11:45

but on the side of

00:11:46

India and you reach an

00:11:49

agreement box that has been

00:11:50

a consistent push bar having

00:11:52

major investment cord, which India

00:11:54

has been considerably favoring for

00:11:56

the same time. If you'd

00:11:59

open your name wants to

00:12:00

have the exhaustion of local

00:12:01

remedies that duration of five

00:12:03

years to build and use

00:12:04

something that has been having

00:12:06

for a while now, but

00:12:08

I just been something What

00:12:11

apps can I download through

00:12:14

all the negotiation but the

00:12:15

lucky ones around going or

00:12:18

India UK June 14th round

00:12:19

same problems. As I said

00:12:22

about you still exists riding

00:12:24

Russian Blue Cats remedies in

00:12:26

Australia Sri Lanka chile-argentina potential

00:12:32

announced and open up. The

00:12:37

lights are out. So we're

00:12:38

having a close watch on

00:12:39

what's really happening with those

00:12:41

are FTS in VIP for

00:12:47

a couple of investment arbitration

00:12:48

Awards, which has some good

00:12:59

about Mission possible GDx on

00:13:02

Airport baggage handler case and

00:13:04

document is on the Spectrum.

00:13:10

Patient has been on the

00:13:12

site for India which have

00:13:15

been going on across the

00:13:16

globe including the US District

00:13:19

Court, but the ones to

00:13:21

watch in the next couple

00:13:23

of months and years would

00:13:26

be the award and the

00:13:28

second divorce case, which is

00:13:30

ongoing at the moment as

00:13:31

we speak and also the

00:13:32

entity but the biggest thing

00:13:37

that I was just making

00:13:38

a buzzing India and back

00:13:40

part of the region is

00:13:41

an upcoming case against India

00:13:43

on the gold mining dispute,

00:13:44

which as we all know

00:13:47

mining District are on the

00:13:48

rise and it has been

00:13:50

threatened by notice of distilled

00:13:52

by in do gold and

00:13:55

I'll stay in company with

00:13:56

parent company of internal resources

00:13:58

based in the UK. It

00:14:00

there but I quickly switch

00:14:02

gas and I know my

00:14:03

time is short and I

00:14:04

will let all my other

00:14:05

distinguished analyst have their say

00:14:08

on the rest of the

00:14:09

democracy. Going through Pakistan Harris

00:14:12

election in February that is

00:14:16

in crisis, which as we

00:14:25

can expect almost to the

00:14:26

tune of 24 us billion

00:14:28

dollar which is due by

00:14:30

the end of June 2024.

00:14:31

So little next month, so

00:14:34

we don't know what's going

00:14:35

to happen. But at the

00:14:35

same time it does still

00:14:37

needed some of its treaties

00:14:38

and renegotiate our ongoing quickest

00:14:41

way to Bangladesh elections happen

00:14:42

in early John Cena won

00:14:46

her fourth consecutive record. Now,

00:14:49

that's an interesting space to

00:14:50

work because one of the

00:14:51

most populous countries with a

00:14:54

very small jobs to the

00:14:56

area. So they're excellent growth

00:14:58

opportunity for human capital and

00:14:59

the way in which human

00:15:01

resource could be utilized for

00:15:03

manufacturing and many others to

00:15:05

complete with China and other

00:15:06

major hubs, but that being

00:15:08

said one light pink logo.

00:15:10

To notice all right back

00:15:12

and you don't answer is

00:15:13

most of the Bangladesh VIPs

00:15:15

have a denial of benefits

00:15:17

plus Affinity which you really

00:15:20

did not have to prove

00:15:21

expropriation to bring the screen

00:15:23

to do something that you

00:15:24

know, what has been raised

00:15:25

since I've been with a

00:15:26

Bangladesh and we can expect

00:15:27

no more of those in

00:15:28

the next one to come

00:15:29

but at the same time

00:15:35

I want to cover some

00:15:37

of the things that I

00:15:43

do. Is unlocked perception people

00:15:47

may have but that being

00:15:48

said she Lanka elections is

00:15:50

expected later this fall and

00:15:54

they're expecting to see what

00:15:56

best friends do not like

00:15:57

India and Sri Lanka is

00:15:58

also having a free-trade Tik

00:16:00

Tok so it'll be interesting

00:16:02

to note that space as

00:16:03

well on the Indonesia side

00:16:05

of the former leader and

00:16:10

was banned from contesting elections

00:16:12

podcast 10 years. So that

00:16:13

being said the former Defense

00:16:16

Minister has not won the

00:16:17

election in Indonesia, and that

00:16:19

has led to another person

00:16:22

even though his relatively old.

00:16:24

I mean 70s he's a

00:16:27

big fan of Tik-Tok and

00:16:28

technological Savvy person. So he's

00:16:31

very fond of you and

00:16:32

what would happen with the

00:16:34

Young Generation which contribute to

00:16:37

the economy. So it seems

00:16:38

like a man who wants

00:16:39

to improve bilateral trade talks

00:16:42

with the neighboring countries. So

00:16:43

that's another issue. Watch with

00:16:46

Indonesia projected as the next

00:16:48

hok. Shahab and one of

00:16:51

the major reasons being is

00:16:52

trying to move the capital

00:16:53

city from Jakarta to another

00:16:55

city. So that could potentially

00:16:56

impact lot of investments in

00:16:58

process by and I'll save

00:17:01

it for next time. He

00:17:10

had made an animated Avatar

00:17:12

of himself on in order

00:17:13

to appeal to younger voters.

00:17:15

Maybe that's right Mark. So

00:17:22

you want to take it

00:17:22

then to Europe. Thank you

00:17:26

very much. And it's a

00:17:27

it's a great honor to

00:17:28

be part of this panel

00:17:32

and I will speak of

00:17:36

elections in Europe and invest

00:17:39

in arbitration. At least I'm

00:17:40

concerned I can't help but

00:17:43

be highly selective but I

00:17:47

wasn't happy to return to

00:17:49

any particular points allowed me

00:17:52

to begin by saying a

00:17:53

few words on elections, which

00:17:55

have already taken place across

00:17:58

Europe over the last few

00:17:59

months in terms of political

00:18:02

commentary that is out there.

00:18:04

It's been over all kind

00:18:07

of a shift towards center

00:18:09

right right-wing parties, but I

00:18:11

want to be cautious about

00:18:13

Carnival fairing a unified political

00:18:15

at tracks lead to a

00:18:19

change in government are not

00:18:22

expected to released any kind

00:18:24

of drastic. Shoe store or

00:18:27

reduction in terms of international

00:18:28

engagement in engineering. We saw

00:18:31

a new president be elected

00:18:33

in Finland who is a

00:18:35

very strong supporter of condensed

00:18:37

can of course within the

00:18:39

EU and now nature. So

00:18:40

he's expected to support Billings

00:18:45

International agenda within the new

00:18:49

country political context and after

00:18:51

the installation in the war

00:18:55

in Ukraine and similar in

00:18:58

terms of impact in March

00:19:00

Elementary elections in Portugal leading

00:19:04

to new center right at

00:19:06

government succeeding a long-term Center

00:19:09

less Administration. There are questions

00:19:11

there in terms of Governor

00:19:12

ability, and we're not quite

00:19:15

sure how the Parliamentary Dynamics

00:19:18

Will go because the minority

00:19:19

government but still in terms

00:19:20

of the overall course policy

00:19:23

course of of the country

00:19:24

in terms of investment matters.

00:19:29

It doesn't seem like it

00:19:32

would be a drastic policy

00:19:34

shift very famous last words

00:19:35

and in Croatia as well.

00:19:40

We stored the re-election of

00:19:41

incumbent government, which is generally

00:19:44

seen as pro-union Pro business

00:19:47

other elections that happened recently

00:19:50

are likely to generate a

00:19:52

greater uncertainty in the last

00:19:54

couple of months North Macedonia

00:19:57

went through presidential and parliamentary

00:19:59

elections in in both to

00:20:02

which the main opposition National

00:20:03

Party have prevailed Northwest of

00:20:06

candidate for accession to the

00:20:08

European Union and the new

00:20:11

president and incoming government seemed

00:20:15

to affect the opposing normalization

00:20:17

with me. Countries Greece and

00:20:19

Bulgaria and this compounded by

00:20:24

the perception of the government

00:20:25

that does the party is

00:20:26

pro-russia. I can have the

00:20:28

capacity of undermining efforts to

00:20:32

other country to join the

00:20:33

European Union. So then we

00:20:35

can do until this this

00:20:39

make create the essential for

00:20:42

generating dispute presidential elections in

00:20:46

Slovakia in the last few

00:20:48

months. Also led to the

00:20:50

election of the president will

00:20:51

seem to be friendly to

00:20:54

Russia potentially exacerbating uncertainty in

00:21:01

terms of foreign policy including

00:21:02

sanctions as well as Environmental

00:21:04

Policy. So it's interesting to

00:21:06

see how this involves on

00:21:07

a national level but don't

00:21:08

know how this will affect

00:21:08

you level the same as

00:21:12

well. Now that's more important

00:21:15

in terms of policy impacts

00:21:17

between the 6th and 9th

00:21:20

of June will be European

00:21:21

Union elections in which citizens

00:21:23

of human birth dates that

00:21:26

we be voting for the

00:21:27

composition of the European Parliament.

00:21:28

You can Parliament is one

00:21:29

of the two less the

00:21:31

same institutions of the European

00:21:32

Union the other being the

00:21:34

Council of Ministers of government

00:21:35

of member states, but the

00:21:39

elections are not just about

00:21:41

the composition of parliament itself

00:21:43

that is important, but at

00:21:45

the same time and majority

00:21:47

of Parliament that needs to

00:21:49

confirm the appointment or the

00:21:52

new president of the European

00:21:53

commission the head of the

00:21:54

Executive Board of the European

00:21:55

Union following a nomination of

00:21:57

the name by the member

00:21:59

states Services, I think even

00:22:03

even more likely to to

00:22:05

have a policy impact the

00:22:08

European people's party is expected

00:22:10

to come first. This isn't

00:22:11

the right grouping but the

00:22:12

question Is whether it would

00:22:14

be able to form is

00:22:15

Professional Collision with the central

00:22:17

aisle Center a left and

00:22:19

liberal groupings or if they

00:22:22

would be nice to reach

00:22:23

out to more right-wing a

00:22:25

party. So in this life,

00:22:27

I envisaged three issues in

00:22:30

terms of impact on investment

00:22:33

law and investment racial firstly

00:22:36

even if the president of

00:22:38

the commission the incumbent on

00:22:40

them with lavender line is

00:22:42

reappointed the Parliamentary Dynamics will

00:22:45
profoundly shaped they use Regulatory

00:22:47
and legislative agenda of the

00:22:49
next five years. This will

00:22:50
shape the policy landscape in

00:22:54
Europe and my generator or

00:22:56
conversely perhaps p.m. To Deschutes.

00:22:57
We have seen Environmental Policy

00:22:59
the European greenbuild being somewhat

00:23:03
rollback visa visa application on

00:23:06
agriculture and and we must

00:23:09
also wait and see if

00:23:11
it would be any changes.

00:23:13
I'm concerning environmental or energy

00:23:16

subsidies, which is sometimes floated.

00:23:20

Of course, the overall kind

00:23:21

of policy Direction in terms

00:23:23

of decarbonisation is not question,

00:23:25

but this delivery might be

00:23:26

recalibrated which the term will

00:23:35

continue including developing instruments responding

00:23:39

to the G+ ization for

00:23:41

investment. So we'll see we

00:23:43

will see an overhaul of

00:23:44

the screen mechanisms of foreign

00:23:46

direct investment and inbound investment

00:23:48

as well as a production

00:23:50

of outbound FBI screening. I

00:23:55

can leave the European Parliament

00:23:57

risks becoming increasingly skeptical of

00:24:00

free trade agreements or investment

00:24:01

treaties which provide for investment

00:24:04

arbitration this the trend which

00:24:06

in many countries across Europe

00:24:09

and Beyond this will complicate

00:24:13

the ratification of investment protection

00:24:15

agreement. Is there a negotiation

00:24:20

for example with Indonesia Mexican

00:24:23

even quicker mentioned visit in

00:24:26

early stages, but the agreement

00:24:27

with India, that is negotiate.

00:24:31

The composition of the European

00:24:33

Parliament and commission and affect

00:24:35

the eu's a commitment to

00:24:39

reform Alliance gas before the

00:24:40

A train working group 3

00:24:42

and even bilaterally in a

00:24:43

relationship with the EU and

00:24:48

its member states have been

00:24:49

spearheading efforts to reform investment

00:24:52

arbitration as a way to

00:24:54

balance the needs of investment

00:24:56

protection on the other hand

00:24:57

have concerns in terms of

00:25:00

regulatory autonomy as well as

00:25:01

the credentials of isps and

00:25:05

the workability of the governing

00:25:06

Coalition has the bandwidth to

00:25:13

continue pushing for these types

00:25:15

of reforms bring something look

00:25:18

like in Westmont Court, I

00:25:19

expect that there will be

00:25:20

filed with the commission will

00:25:23

needs to work harder to

00:25:24

ensure that it does not

00:25:25

get distracted by an evacuated

00:25:27

political posturing and this is

00:25:29

a euphemism of my presentation.

00:25:31

In terms of the UK

00:25:33

the United Kingdom is expected

00:25:35

to hold elections with a

00:25:37

stronger 2025, but really by

00:25:39

the end of minutes before

00:25:40

the main opposition Labour party

00:25:43

is 20 points ahead in

00:25:45

the polls. So that is

00:25:47

That is where we're at

00:25:49

at the moment the Labour

00:25:51

party's compressor tis business-friendly credentials

00:25:53

and has adopted the largely

00:25:55

Centrist agenda. This includes an

00:25:58

80 policy which again has

00:26:00

been recently named rolled back.

00:26:02

But there is a commitment

00:26:04

to decarbonize energy production in

00:26:07

trailer by expanding wind capacity

00:26:09

that is expected to hold

00:26:12

them on a big scale.

00:26:12

There's also a time to

00:26:14

relax analyzed all really operators,

00:26:17

but in a gradual way

00:26:18

in what is expected to

00:26:27

continue the discussion on the

00:26:29

UK's regulatory approach which in

00:26:31

which has been ongoing since

00:26:32

when did the brexit referendum

00:26:33

will the UK to us

00:26:35

while we're partial to line

00:26:38

with EU standards? Is it

00:26:39

willing to compromise on its

00:26:40

environmental and public health standards

00:26:42

for the sake of Greater

00:26:43

foreign investment or perhaps increase

00:26:45

chances of securing trade investment.

00:26:47

Agreements that is something we

00:26:49

will have to wait and

00:26:51

see secondly following brexit the

00:26:55

UK has embarked on extensive

00:26:58

negotiations for trade investment agreements

00:27:00

with several States, but it

00:27:02

has yet to develop a

00:27:03

comprehensive strategy post-brexite concerning what

00:27:07

is frankly think of iced

00:27:09

tea and the reasons and

00:27:14

the UK has said that

00:27:15

it is not considered IPS

00:27:16

to be appropriate and it

00:27:20

it has also mirrored the

00:27:21

eu's approach in terms of

00:27:22

withdrawing from the energy trying

00:27:24

to treat me but at

00:27:25

the same time the UK

00:27:27

has accepted an unreformed kind

00:27:30

of Orthodox version of is

00:27:31

BS within the context of

00:27:33

the ctppt the commencement address

00:27:35

for agreement for Trans Pacific

00:27:37

partnership. So we we we

00:27:40

need to kind of wait

00:27:42

for another station of the

00:27:43

UK's approach post brexit. One

00:27:47

smelled hold one's breath. But

00:27:49

this will I think crystallize

00:27:50

in you in due course

00:27:52

now about the coming elections

00:27:56

Beyond a u in the

00:27:57

UK ones which which Bill

00:27:59

munz radar I will alone

00:28:02

folks on a couple but

00:28:03

I'm happy to to go

00:28:04

into more detail on Moore

00:28:07

election is there are presidential

00:28:09

elections in Lithuania. We charge

00:28:12

you to complete in a

00:28:13

few days. The reason why

00:28:14

I'm selling this as want

00:28:17

to watch it because the

00:28:19

current prime minister is running

00:28:20
to be president against incumbent

00:28:23
president and the current prime

00:28:26
minister is a famous name

00:28:28
Pro Taiwan in this has

00:28:32
seriously affected the relationship between

00:28:35
Ukrainian China, which is underpinned

00:28:40
the development of an antique

00:28:41
Russian instruments at the European

00:28:43
Union level. So that is

00:28:44
that. May have Jubilee Locations

00:28:47
in that regard. I'm also

00:28:49
the Austrian legislative elections will

00:28:52
take place by Autumn. I'm

00:28:55
currently the poll suggests that

00:28:56
all right party will win

00:29:01
it is not clear whether

00:29:02
or with whom it will

00:29:03
be able to enter into

00:29:05
a government. But this would

00:29:08
be an election to watch

00:29:09
if the last night the

00:29:10
word government. This would likely

00:29:14
have a significant effect in

00:29:17
terms of Environmental Policy as

00:29:19
well as foreign policy including

00:29:21
sanctions and policies as well

00:29:26

and they undermine his relationship

00:29:29

with Brussels and a finally

00:29:33

moved over as a presidential

00:29:35

elections in October as well

00:29:40

as the incoming president who

00:29:43

is seen as being brave

00:29:44

is ahead in the polls,

00:29:47

but it's too early to

00:29:48

tell and the country is

00:29:49

restructuring its energy Supply structures

00:29:52

in terms of electricity and

00:29:54

gas speaking to completely weaned

00:29:56

off of Russian Russian controlled

00:29:58

energy sources do for these

00:30:01
kind of geopolitical reasons the

00:30:04
course of the elections and

00:30:05
may affect the energy policy.

00:30:08
So over all Europe is

00:30:12
is undergoing a period of

00:30:13
significant political change. Which should

00:30:17
not be overstated the day

00:30:19
you level there are uncertainties

00:30:20
and there will be challenges

00:30:21
that will emerge but we

00:30:23
see recalibration as I said

00:30:24
rather than a dramatic Coliseum

00:30:26
Eagle Energy policy may be

00:30:30

partially rebalanced English is appears

00:30:34

to be the main Evolution

00:30:37

Galaxy more importantly there seems

00:30:41

to be a significant skepticism

00:30:43

National legislators Visa v i

00:30:45

s d s in this

00:30:45

may impede an arsenal of

00:30:48

investment policy at ambitious and

00:30:52

wants the answer to that

00:30:54

is concerned is to reform

00:30:56

is DS but of course

00:30:57

that also takes political capital

00:30:59

and will the UK has

00:31:02

yet to settle on investment

00:31:05

treaties and Ice dies in

00:31:06

the prospects of context and

00:31:08

the British regulatory landscape will

00:31:10

crystallize after the coming general

00:31:13

elections and will be affected

00:31:14

perhaps more than in. Acknowledge

00:31:16

publicly a b Future rapper

00:31:20

smile with the European Union

00:31:21

in the elections of important

00:31:24

what are different reasons you

00:31:29

political kind of factors May

00:31:32

significantly affect energy policy. Thanks

00:31:38

very much much much. And

00:31:39

I forgot when I was

00:31:40

introducing Kayla that she's also

00:31:41

going to be the one

00:31:42

person gets to go back

00:31:43

to 2023. She sells a

00:31:45

good chocolate Argentina as well.

00:31:46

Take us into Latin America.

00:31:51

Thank you, my friend and

00:31:52

thanks to the world arbitration

00:31:54

update and everyone who's here

00:31:56

today. It's great to see

00:31:57

everybody and all those online.

00:32:00

Yes. I was the one

00:32:04

who wanted to look under

00:32:05

the hood a little bit

00:32:06

to 2023 because I wanted

00:32:10

to remind everyone that that

00:32:11

that that Argentina had an

00:32:13

election at the very end

00:32:15

of 2023 that brought us

00:32:18

some some interesting developments and

00:32:21

I also wanted to kind

00:32:23

of glom onto the idea

00:32:25

of change a lot of

00:32:28

the rhetoric that one's using

00:32:30

the Press regarding elections and

00:32:33

the different parties involved in

00:32:35

elections. Is that Parties that

00:32:38

are associated more with the

00:32:40

right and to be more

00:32:41

for investment or pro-business and

00:32:44

and you kind of tend

00:32:45

to see a generalization that

00:32:47

oh, well that must be

00:32:48

good for investment that must

00:32:49

be for a general investment

00:32:52

climate and for not wanting

00:32:56

more dispute, but I think

00:32:58

it is more apt to

00:33:00

focus on change and uncertainty

00:33:03

and the amount of change

00:33:05

and uncertainty that's happening and

00:33:08

I do think that we

00:33:09

see a lot in the

00:33:11

world a lot of change

00:33:14

and uncertainty involving Administration is

00:33:17

going to extremes whether it's

00:33:20

the extreme right where the

00:33:22

extreme left and or those

00:33:25

of us who have been

00:33:26

doing investment arbitration for quite

00:33:29

some time. That is the

00:33:32

best formula for an investment

00:33:33

arbitration. Honestly when you have

00:33:36

some Shift some huge regulatory

00:33:39

policy shift from the left

00:33:41

to the right or the

00:33:42

rights the left. So just

00:33:45

a reminder look out for

00:33:47

change. It's not necessarily true

00:33:50

that if an incoming Administration

00:33:53

is more to the right

00:33:55

at this is suddenly going

00:33:57

to be a better environment

00:34:00

for stability because you might

00:34:03

be looking at a huge

00:34:05

pendulum shift and whatever you

00:34:08

looking at pendulum shifts, you're

00:34:10

usually looking at an environment

00:34:13

that is quite right for

00:34:15

an investment dispute and also

00:34:19

a reminder that the popular

00:34:21

ISM that seems to be

00:34:22

pretty inescapable in today's politics

00:34:24

and come from the left

00:34:26

and come from the right

00:34:27

and it also tends to

00:34:29

have A fair share of

00:34:32

nationalism in isolationism built-in which

00:34:38

is pretty much the antithesis

00:34:40
of the Bretton Woods system

00:34:41
that a lot of our

00:34:43
investment arbitration was built upon.

00:34:44
So again, when you see

00:34:47
big stress either to the

00:34:49
right or to the left

00:34:50
you're looking at a recipe

00:34:53
for and that's when our

00:34:56
tradition to see it and

00:34:58
I did plan on talking

00:35:01
about the Dr. First because

00:35:04
the Dr. Just had the

00:35:05
Dominican Republic just had its

00:35:07

election yesterday. But of course

00:35:10

the headlines that popped up

00:35:12

on my phone first today

00:35:13

was about Argentina and about

00:35:17

so again going back a

00:35:19

bit to 2023 in at

00:35:22

the end of 2023 president.

00:35:24

Leo was elected in Argentina.

00:35:28

He is of the far-right

00:35:29

and he Made it known

00:35:32

even some more of the

00:35:33

world even more publicly that

00:35:36

he is of the far

00:35:37

right by participating in a

00:35:39

very far right conference that

00:35:42

happened in Madrid supporting candidates

00:35:45

like Frances Marine Le Pen

00:35:47

and the prime minister's from

00:35:50

Italy and hungry and the

00:35:55

results of his participation in

00:35:57

that conference was Spain cutting

00:35:59

ties with Argentina. So so,

00:36:02

you know just a little

00:36:04

bit of change out there

00:36:06

and that that is just

00:36:11

something to watch. It's something

00:36:13

to watch when you have

00:36:15
regardless of the political identity

00:36:18
of a candle that when

00:36:19
you have a candidate that's

00:36:20
going out into the geopolitical

00:36:22
world and and And acting

00:36:26
so Perhaps unpredictably Perhaps bombastically

00:36:30
Malay has now succeeded in

00:36:34
training or cutting ties with

00:36:37
a number of countries including

00:36:39
Colombia Chile and Mexico. So

00:36:42
whenever you have a little

00:36:44
girl leader engaging in such

00:36:46
volatile conduct, you might see

00:36:48

a concomitant rise in investment

00:36:50

disputes particularly in a nation

00:36:54

like Argentina where everyone is

00:36:56

looking to invest in lithium.

00:36:59

So we've got mining got

00:37:02

mining on the line in

00:37:03

Argentina and people are looking

00:37:04

at Argentina compared to Chile

00:37:08

and Bolivia in particular as

00:37:11

a country that has relatively

00:37:13

are comparatively fewer regulatory requirements

00:37:17

lithium companies can be completely

00:37:21

privately owned in Argentina, and

00:37:24

that's not The case in

00:37:26

chili or or Bolivia where

00:37:27

in Mexico so you do

00:37:29

have a lot of foreign

00:37:30

investment really keenly interested in

00:37:34

Argentina that is currently being

00:37:37

led by a far-right leader

00:37:40

that is that is known

00:37:42

for being a bit volatile

00:37:44

and just as keeping score

00:37:47

a bit Argentina up to

00:37:49

today has had a total

00:37:51

of 65 investment arbitrations brought

00:37:53

against it eight of those

00:37:55

are pending moving on to

00:37:57

the Dominican Republic which in

00:38:00

comparison to Argentina might be

00:38:01

a bit boring, boring is

00:38:03

what investment life boring like

00:38:05

certainty. He does not like

00:38:08

a lot of change or

00:38:10

or investment doesn't like a

00:38:11

lot of change. So boring

00:38:12

is good yesterday the president

00:38:16

Ivy now there was re-elected

00:38:18

in the Dominican Republic and

00:38:21

he comes from a pretty

00:38:24

SunTrust. If not Centrist, maybe

00:38:27

a little bit right position.

00:38:28

He's known for a deathly

00:38:30

handing the cold and alone

00:38:32

in the covid crisis his

00:38:34

anti-corruption platform and also has

00:38:38

his harsh politics against Haiti

00:38:41

so you might you know

00:38:46

Particularly with respect to a

00:38:49

variety of ESG due diligence

00:38:53

supply chain due diligence laws

00:38:56

that are coming out of

00:38:57

Europe may be out of

00:38:58

California. You might see those

00:39:01

countries that are maybe not

00:39:05

as advanced on environmental human

00:39:08

rights and governments lines. You

00:39:10

might see investment disputes popping

00:39:12

up because the suppliers in

00:39:16

those countries that are part

00:39:17

of the supply chain are

00:39:19

not able to comply with

00:39:21

perhaps more robust standard. So

00:39:25

look out for that in

00:39:27

countries that maybe there's not

00:39:29

a big change, but if

00:39:30

there's a human rights element

00:39:31

if there is an environmental

00:39:33

element, maybe like in Argentina,

00:39:35

you might see some investment

00:39:38

disputes popping up Panama, very

00:39:42

interesting just a few weeks

00:39:44

ago elected. President Lee know

00:39:47

who was the running mate

00:39:50

of former president Martinelli now

00:39:54

Martinelli was was just at

00:39:57

the Supreme Court decided that

00:39:59

might be Natalie could not

00:40:00

run for president. They did

00:40:03

decide that Mulino could run.

00:40:04

That was the decision that

00:40:07

everyone was watching and Panama

00:40:10

and everyone is waiting to

00:40:12

see especially if Molina will

00:40:15

be truly separate from from

00:40:19

Murphy Nelly. That's the big

00:40:22

question. That's the big uncertainty

00:40:24

is Mulino can rule without

00:40:28

without essentially being a puppet

00:40:32

of my screen Ellie. Then

00:40:33

you will likely see a

00:40:35

Panama that is relatively unchanged

00:40:38

that is more pro-business that

00:40:42

it has been in the

00:40:43

past, but everyone's just kind

00:40:45

of waiting to see what

00:40:46

Happens Mulino has up to

00:40:49

this point said the right

00:40:50

things and and he has

00:40:52

nominated a cabinet which is

00:40:54

very pro-business and very Pro

00:40:57

investment. So relatively boring boring

00:41:00

is good, but we'll see.

00:41:03

We'll see what happens. We'll

00:41:05

also see what happens with

00:41:07

respect to the Copper mining

00:41:09

dispute that has been following

00:41:13

an end has been quite

00:41:15

a large and significant dispute

00:41:17

in Panama for the past

00:41:18

couple of years. We'll see

00:41:20

how the Mulino Administration deals

00:41:22

with all of the disputes

00:41:23

that have the copper mine

00:41:26

has generated and Leslie and

00:41:29

Sunday in February re-elected. Which

00:41:36

I guess you might say

00:41:37

is boring because he is

00:41:40

remaining on but LA and

00:41:42

it's in himself is not

00:41:44
boring at all that I

00:41:47
would I would classify the

00:41:49
vocal a Gambit as Law

00:41:51
and Order plus cryptocurrency and

00:41:55
you know, maybe some investment

00:41:57
maybe some investors were very

00:42:00
attracted by his clampdown on

00:42:02
Law & Order. They were

00:42:04
not so attracted by his

00:42:06
dive into cryptocurrency and investing

00:42:11
a large portion of El

00:42:12
Salvador reserves into cryptocurrency. It

00:42:17
might work out in the

00:42:18

end. But again, you know,

00:42:19
this is this is an

00:42:21
Administration that is that is

00:42:23
seen as quite volatile and

00:42:26
certainly not high on the

00:42:29
list of Human Rights organizations

00:42:31
these days so when you

00:42:34
see political leader That are

00:42:36
volatile and almost universally reviled

00:42:40
by human rights Advocates. You

00:42:43
might see some investment disputes

00:42:45
popping up there as well.

00:42:47
I think. That is the

00:42:50
end of my review. So

00:42:53

if you want to keep

00:42:54

keep going through a tour

00:42:56

of Latin America will do

00:42:58

perfectly we're looking for drastic

00:43:06

changes here in Latin America,

00:43:09

especially there's always the Tennessee

00:43:11

from the press to label

00:43:12

or a party by right-wing

00:43:17

or left-wing but that I

00:43:18

thought what I mean, that's

00:43:19

probably about three countries Venezuela

00:43:28

Mexico and Uruguay. I will

00:43:30

start with my home country

00:43:31

Venezuela. They are they will

00:43:35

hold a presidential elections in

00:43:37

Late July or early stats

00:43:39

was in on the scale

00:43:41

and if nothing is set

00:43:44

in stone in Venezuela could

00:43:46

really change the two candidates

00:43:48

we have is Nicolas Maduro

00:43:51

president run for a third

00:43:55

term machine combined with les

00:43:57

president Travis that will be

00:43:59

their sixth or seventh in

00:44:02

like 25 years. Now extremely

00:44:05

low popularity part absolute control

00:44:08

over all institutions and communication

00:44:12

part like traditional communication platforms.

00:44:15

Let me know when is

00:44:17

expecting a different outcome other

00:44:19

than enough. Italy manipulated election.

00:44:23

The opposition Runner is a

00:44:28

his name is Armando Gonzalez

00:44:29

is a former Ambassador and

00:44:32

a diplomat with no prior

00:44:34

experience in politics, or at

00:44:36

least not running for office.

00:44:38

He's just a single the

00:44:41

name on the ballot Nicolas

00:44:43

Maduro allow the opposition to

00:44:44

register. The real candidate behind

00:44:48

Gonzalez is Maria Corina Machado,

00:44:50

I mean she's been in

00:44:54

the opposition for like roli

00:44:56

from from day one when

00:44:57

when she took office in

00:44:59

1999 massively Wanda position primaries

00:45:05

last fall with a lot

00:45:07

of support locally on all

00:45:10

an ulcer internationally course because

00:45:13

of all the face you

00:45:14

was barred from running. She

00:45:16

tried a replacement by endorsing

00:45:21

a professor or a senior

00:45:23

Professor call Karina. He's given.

00:45:26

Similarities with the name, but

00:45:29

she faced registration issues. Totally

00:45:32

the portal where you were

00:45:34

supposed to write for your

00:45:35

name to run for elections

00:45:36

wasn't working the last 3

00:45:38

days before the deadline so

00:45:39

they didn't let her file.

00:45:41

So ultimately she decided to

00:45:44

endorse Mando Gonzales, which is

00:45:48

basically the last That remaining

00:45:50

like non government-related name that

00:45:53

wasn't so basically is going

00:45:55

to be on her behalf.

00:45:57

My plan has always been

00:46:03

to take his opposition that

00:46:05

that's what they've been doing

00:46:06

successfully for like 20 years.

00:46:09

So I mean nothing that

00:46:12

means anything that will represent

00:46:15

any meaning of threat to

00:46:16

our I'm actually surprised. Gonzalez

00:46:22

still on the ballot. He

00:46:23

might be barred from running

00:46:25

at some point between now

00:46:26

and the end of July

00:46:27

regardless, we we expect the

00:46:32

motor is going to win

00:46:33

the election or at least

00:46:34

of these for him to

00:46:35

announce that he won the

00:46:36

election with no institution really

00:46:39

contest in the result but

00:46:42

is very important letter Maria

00:46:47

Corina. Machado is getting a

00:46:48

lot of support. So that's

00:46:51

always a possibility for change,

00:46:52

but I've been saying that

00:46:53

for ten years and nothing

00:46:54

has happened. So I would

00:46:58

say that we should expect

00:47:02

you know, continuing political social

00:47:04

and economic economic instability a

00:47:07

very challenging environment for the

00:47:10

private sector more expropriation and

00:47:13

arbitrary measures in general no

00:47:15

protections for either domestic or

00:47:18

International or foreign investors. That's

00:47:22

what's going on in the

00:47:23

last 5-6 years a lot

00:47:26

of political instability hyperinflation. The

00:47:32

knowledge is combined is just

00:47:34

let you one of the

00:47:35

early that the most severe

00:47:36

humanitarian crisis that has been

00:47:38

recorded in in recent times

00:47:40

in Latin America over 6

00:47:41

million are refugees right now.

00:47:43

Even if I wanted to

00:47:44

have been forced to flee

00:47:46

the last five or six

00:47:49

years. So so we're expecting

00:47:52

just another Victory from a

00:47:53

little likely foul and it's

00:47:55

just a matter of what

00:47:57

it's going to be crucial.

00:47:58

Here's how the International Community

00:48:00

is going to approach this

00:48:01

if they give us a

00:48:02

similar approach to what I

00:48:04

did in 2018, but you

00:48:06

can leave the EU and

00:48:07

the United States government as

00:48:08

you know that US government

00:48:10

in Jose De imposed sanctions

00:48:12

on the government of Venezuela

00:48:14

designating the government of Venezuela,

00:48:17

but it's quite ugly and

00:48:27

I don't want to go

00:48:28

into the next portion of

00:48:30

our presentation about elections in

00:48:32

their Estates, but it's still

00:48:33

unclear at least how that

00:48:35

the current Administration is going

00:48:36

to approach these elections on

00:48:40

these results are they they

00:48:41

have a different I would

00:48:43

say they have a different

00:48:44

style or approach to managing

00:48:47

the situation in Venice. That

00:48:49

compared to the previous administrations.

00:48:50

We still get to be

00:48:52

seen in some of the

00:48:56

guys is still there. So

00:49:02

I would expand a list

00:49:06

of small list of arbitration

00:49:08

claim is coming in. There's

00:49:09

a long list of potential

00:49:11

claimants that are basically waiting

00:49:13

because of enforcement limitations, but

00:49:17

after that I think in

00:49:18

general, I mean it would

00:49:19

be a change for the

00:49:26

entire region. I will make

00:49:30

you something real quick before

00:49:30

I'm done with Venezuela because

00:49:32

you probably heard that the

00:49:33

name of one way to

00:49:34

a lot in previous years

00:49:35

or those who are wondering

00:49:37

where he is. I'm here

00:49:39

for those who don't know

00:49:41

here and of an interim

00:49:43

government that was recognized by

00:49:45

more than 50 countries in

00:49:47

the world that was around

00:49:48

me lyrics 2019 and 2023

00:49:51

or so, of course, I

00:49:53

mean after being unable to

00:49:54

remove odor from Power his

00:49:56

to control the military and

00:49:58

state government has mantle on

00:50:04

on one where do is

00:50:06

no longer in the role

00:50:07

is it was forced to

00:50:09

flee Venezuela avoid persecution by

00:50:12

the regime and he's not

00:50:14

supporting publicly my child from

00:50:18

this morning meeting yet we

00:50:27

have what is going to

00:50:29

be the largest election ever

00:50:31

New Mexico we have in

00:50:33

on June 2nd. We're going

00:50:36

to have traditional elections Grand

00:50:38

Avenue Congress federal government has

00:50:41

also local Representatives pretty massive

00:50:44

collection of the two candidates.

00:50:49

She's a former mayor of

00:50:51

Mexico City and she's an

00:50:53

ally of President Andres Lopez

00:50:56

obrador or at least it

00:51:03

seems to be on the

00:51:05

opposition side. You have such

00:51:06

as Galvez or she represents

00:51:09

another kind of historic opposition

00:51:12

Alliance that involves several traditional

00:51:16

parties in in Mexico, like

00:51:17

\$3 with the caveat that

00:51:22

I'm not and I'm not

00:51:25

an expert in in politics

00:51:26

and in Mexico, I will

00:51:29

acknowledge the complexity and how

00:51:31

diverse politics in general are

00:51:34

in in in Mexico, but

00:51:36

we could text back. I

00:51:38

mean in general I would

00:51:39

say if if the chairman

00:51:42

wins, which is what seems

00:51:44

to be expected. I would

00:51:45

I would expect at least

00:51:48

two. Any other policies of

00:51:50

President I'm low and that

00:51:52

means either keeping or increasing

00:51:54

our regulations and special in

00:51:57

key sectors like energy also

00:52:00

keeping our increasing public spending

00:52:02

and I think in general.

00:52:04

I was at a challenging

00:52:05

environment for foreign investors. If

00:52:09

if if Alvarez wins, there

00:52:12

might be some economic reforms

00:52:15

to reduce stating intervention on

00:52:18

to increase a private-sector involvement,

00:52:21

which is going to be

00:52:22

seen as probably since probably

00:52:24

but there could also be

00:52:26

some austerity measures post covid

00:52:28

4 Hour post our lease

00:52:30

in response to the last

00:52:32

few years on there. I'm

00:52:33

low so that they could

00:52:38

be there always winners and

00:52:40

losers and when you go

00:52:42

to the extremes, it's always

00:52:44

a good idea for what

00:52:45

investment disputes. Before I move

00:52:49

on I want I like

00:52:51

the historical significance of this

00:52:54

election in Mexico, which is

00:52:56

said to like the Mexicans

00:52:58

first female president. And this

00:53:01

is how I think I

00:53:01

got a huge milestone that

00:53:05

he I think he's very

00:53:05

significant North Little League even

00:53:07

Mexico superheroes in general in

00:53:10

America's history of of machismo

00:53:11

and they're like in the

00:53:13

context of gender inequality in

00:53:15

the region. I am hoping

00:53:17

that this election will symbolize

00:53:20

that I met your shift

00:53:21

in the you know, when

00:53:23

the cultural and social dynamics

00:53:24

in the entire region regardless

00:53:26

of who is elected or

00:53:28

what was he very quickly

00:53:30

on on Uruguay. They will

00:53:32

be holding presidential elections in

00:53:34

late October. I understand except

00:53:38

that they're still waiting some

00:53:39

primary. So we don't know

00:53:40

what the final Runners will

00:53:42

be. But we're expecting the

00:53:44

two main bodies to be

00:53:47

the favorite sport. Selection the

00:53:49

party if they need to

00:53:56

be labeled somehow, I think

00:53:57

it would be more towards

00:53:58

the right wind side and

00:54:01

a position that is more

00:54:03

leaning towards the left Wynne

00:54:06

Ford. I would I wouldn't

00:54:09

expect any radical change beyond

00:54:13

what is normal in any

00:54:15

transition between the administration are

00:54:18

a thing for your why

00:54:19

does the key here is

00:54:21

the reality of Uruguay has

00:54:23

a strong like the rest

00:54:25

of our region has a

00:54:27

strong Democrat democratic tradition, you

00:54:30

know steady economic growth high

00:54:33

levels of transparency. No corruption

00:54:35

levels compared to their way.

00:54:37

So I would I would

00:54:38

say that your wife wife

00:54:40
are one of the most

00:54:41
stable countries in the region

00:54:42
on. That's you know, that's

00:54:44
music to clean Masters. That's

00:54:46
what I want to hear.

00:54:49
A nice shirt on expat

00:54:50
any any major changes in

00:54:53
after these elections? Thank you

00:54:59
so much at work. So

00:55:01
well the humor in it.

00:55:07
Thank you for the organizers

00:55:08
in like a panelist and

00:55:10
the guy is here today.

00:55:11

I'm embarrassed by the wealth

00:55:13

of knowledge and wisdom at

00:55:14

the panel here today and

00:55:16

not I'll just focus on

00:55:17

one election the u.s. Presidential

00:55:20

election on November 5th, like

00:55:22

many Americans. I may be

00:55:24

only qualified to talk about

00:55:25

developments here at home. But

00:55:29

I've learned a lot today.

00:55:29

That's far and I asked

00:55:31

yes I think is a

00:55:32

small issue obviously in this

00:55:34

sort of hugely important elections

00:55:38

in November, but it is

00:55:40

an important election for ists

00:55:42

for many reasons and I

00:55:44

will in my discussion focused

00:55:46

exclusively on policy towards is

00:55:50

dsf4 sample to negotiation of

00:55:53

agreements with ists. I will

00:55:55

not talk about regulatory developments

00:55:57

in others that anticipate under

00:56:00

a Biden or Trump Administration

00:56:03

So setting the scene, where

00:56:05

is I have CBS now

00:56:06

in the United States in

00:56:08

short is DS is under

00:56:11

threat if it came a

00:56:13

lightning rod clinical is United

00:56:15

States during the TPP negotiations,

00:56:18

the trans-pacific partnership negotiations 10

00:56:21

years ago, but at the

00:56:23

time I still had pretty

00:56:26

significant bipartisan support in the

00:56:28

United States. For example, the

00:56:30

president President Obama support ID

00:56:31

is d s n t

00:56:33

p p a he and

00:56:34

his administration thought that the

00:56:36

TPP agreement improved its rules

00:56:39

procedures and also the substantive

00:56:41

investment protection standards in the

00:56:43

agreement in a way that

00:56:44

balanced protection of investment and

00:56:48

governments important right to regulate

00:56:50

and also at the time

00:56:52

there were efforts during TPP

00:56:54

to strip its out of

00:56:56

the agreement. For example, Senator

00:56:58

Elizabeth Warren proposed an amendment

00:56:59

to the trade promotion Authority

00:57:02

which Legislative vehicle that enabled

00:57:05

that would have enabled TV

00:57:08

to be considered by Congress

00:57:09

had the president submitted to

00:57:11

Congress has failed in the

00:57:15

Senate 62-39 to the Trump

00:57:18

Administration that when President Trump

00:57:20

was elected in 2016. He

00:57:22

appointed Robert lighthizer as the

00:57:25

US trade representative and Ambassador

00:57:28

lighthiser was very skeptical of

00:57:30

the value of is yes

00:57:32

to the United States. He

00:57:34

was skeptical for both defensive

00:57:36

and offensive reason defensively he

00:57:39

objected in principle to the

00:57:41

United States that u.s. Laws

00:57:43

and regulations Court decisions being

00:57:46

subject to review by an

00:57:48

arbitration tribunal offensively. He argued

00:57:52

that enabling or providing us

00:57:54

investors with access to us.

00:57:56

Yes would incentivize us companies

00:58:00

to move jobs and production

00:58:01

abroad. It's working for offensive

00:58:04

and defensive reasons. He was

00:58:05

supposed he was determined to

00:58:07

significantly narrow access to us

00:58:09

dies in the US Mexico

00:58:11

Canada agreement usmca in usmca.

00:58:16

Isds between US and Canada

00:58:19

is gone. Also New Mexico.

00:58:21

And Canada is gone in

00:58:23

between the US and Mexico

00:58:24

access isds is significantly narrowed

00:58:27

us business community in the

00:58:29

private sector Fox rice dies

00:58:31

in a negotiation, but largely

00:58:33

in the shadows and now

00:58:36

fast-forwarding to today the vitamin

00:58:38

stration during the campaign in

00:58:41

the 2019 2020. Dividing team

00:58:44

indicated that the President Biden

00:58:46

would not support is DS

00:58:48

and in the last three

00:58:50

years has really been no

00:58:52

way to test that position

00:58:55

because the United States is

00:58:56

not engaged in in traditional

00:58:58

trade or investment Association until

00:59:01

it's never been a policy

00:59:05

issue on the table to

00:59:06

include ists in agreements or

00:59:09

not. Are there is right

00:59:11

now in addition to the

00:59:13

normal elevator on isds should

00:59:15

be included in new agreements

00:59:16

or not. There is a

00:59:17

riling to paid right now

00:59:18

in the United States around

00:59:19

should this Administration strip ists

00:59:24

out of existing agreements us

00:59:27

has 53 or so investment

00:59:29

agreements with ICS. And so

00:59:31

Senator Warren and others have

00:59:32

proposed to the vitamin station

00:59:36

should unilaterally without Congress essentially

00:59:38

take ists out of free

00:59:41

trade agreements and to terminate

00:59:43

a bilateral investment treaties that's

00:59:46

an issue on the table

00:59:46

right now. Now looking forward

00:59:50

to the next Administration the

00:59:51

actual topic of discussion the

00:59:53

Biden fighting to or Trump

00:59:55

to the overall I'll make

00:59:57

is it will depend on

00:59:59

Personnel. We saw this very

01:00:02

clearly with Trump won my

01:00:04

own personal view. Whatever. It's

01:00:06

worth is that Ambassador? Robert

01:00:08

lighthizer was was a singularly

01:00:12
responsible for the shift in

01:00:14
US policy on isds in

01:00:15
usmca had there been a

01:00:17
different uscr it might have

01:00:19
been a different outcome. And

01:00:20
that's not to say that

01:00:20
that is unusual. I think

01:00:22
the individual choices the cabinet

01:00:24
members who are Trump to

01:00:26
or Biden to Whitbeck would

01:00:27
naturally have a lot of

01:00:28
influence and power over. Will

01:00:30
there be is DS and

01:00:31

US agreements or not. Everything

01:00:34

I say in the framing

01:00:35

of this issue is will

01:00:36

also depend upon how much

01:00:38

the private sector and Company's

01:00:39

push for SDS as I

01:00:42

mentioned during usmca. I think

01:00:44

the private sector had a

01:00:45

sense that the house was

01:00:47

on fire as I like

01:00:48

to say and usmca that

01:00:49

every trade has she was

01:00:50

up for debate and companies

01:00:53

had to sort of pick

01:00:53

their favorite children to rescue

01:00:56

and to let others go

01:00:57

and I think there was

01:00:58

a few that I asked

01:01:00

you asked for some Industries

01:01:01

is the number one or

01:01:02

number two issue, but most

01:01:04

Industries if her or ties

01:01:05

to other issues as number

01:01:06

one or number two as

01:01:07

a consequence in the way

01:01:08

that the sausage was made

01:01:09

ists maybe didn't get the

01:01:11
attention that supportive supportive ice

01:01:14
chest with wanted it. So

01:01:15
again our companies going to

01:01:16
push for it. Don't know

01:01:18
then moving to the sort

01:01:19
of bulk of the meat

01:01:20
of this presentation. I look

01:01:22
forward to the Biden to

01:01:24
or Trump to Administration. And

01:01:25
I would say that there

01:01:26
are dark clouds over all

01:01:28
for those who want to

01:01:30
have a SDS and agreements

01:01:31

but there are silver linings

01:01:34

and possibilities for is yes

01:01:36

in my view. There are

01:01:38

pro isds arguments that might

01:01:40

appeal to both the buy

01:01:41

a two-income two teams, but

01:01:44

it would be a fight.

01:01:45

The first I'll talk about

01:01:47

the sort of bread-and-butter issue

01:01:49

of ists in new agreements.

01:01:51

Would Biden to or Trump's

01:01:54

who support negotiation inclusion in

01:01:58

the new agreements. The dark

01:02:01

clouds Ambassador Robert Lighthizer by

01:02:04

mentioned whether he is indeed

01:02:06

administration or not is viewed

01:02:08

to be very influential in

01:02:10

in the Trump campaign now

01:02:12

and would be very influential

01:02:14

in a second Trump. I

01:02:16

mentioned his antipathy towards ICE.

01:02:19

Yes, and now also did

01:02:21

a nemesis on Capitol

01:02:23

Hill has changed in 2018

01:02:26

to 2019. He was pushing

01:02:28

to scale back is DHS

01:02:29

on Capitol Hill there were

01:02:31

many mainstream sort of pro-business

01:02:34

Republicans on the hill. I

01:02:36

also Democrats on the hill

01:02:38

a lot of them were

01:02:39

gone. And so the dynamic

01:02:41

on the hill has changed

01:02:42

if a lighthiser lead sort

01:02:45

of lets get rid of

01:02:46

us dies ethos sort of

01:02:49

dominates the Trump Administration in

01:02:51

part to they won't have

01:02:52

the same kind of Hill

01:02:53

opposition. They face in Trump

01:02:55

won. Okay. So this is

01:02:57

against Trump. What are the

01:02:58

Silver Linings? There's an argument

01:03:00

that the dynamic and usmca

01:03:02

in the United States Mexico.

01:03:04

And Canada was fairly unique

01:03:05

the United States truck ministration

01:03:08

had concerns about the movement

01:03:10

of jobs and production over

01:03:13

to Mexico with Canada. There.

01:03:17

There is a really interesting

01:03:18

history of US Canada investment

01:03:20

disputes many more than either

01:03:22

side had anticipated. And so

01:03:24

I think in in 2017

01:03:25

2018 there was moving on

01:03:27

both sides to sort of

01:03:28

reassess the next negotiation. You're

01:03:31

not going to have Mexico

01:03:32

and Canada. You may have

01:03:33

other parties Silver Lining the

01:03:35

other point. I'll make his

01:03:36

Trump is transactional. He likes

01:03:39

to make deals. This is

01:03:40

his character. He makes deals

01:03:42

and in the past in

01:03:44

my experience as a civil

01:03:46

servant in the Trump Administration,

01:03:47

there was flexibility and openness

01:03:49

to considering is dies in

01:03:52

a deal I mentioned in

01:03:54

specifically the the US Dalliance

01:03:57

with Kenya there was there

01:03:58

was not a completed free

01:03:59

Trader, negotiation with Pena in

01:04:01

that Administration. But there were

01:04:03

extensive internal discussions and also

01:04:05

negotiations. And at the time

01:04:06

there were senior us officials

01:04:09

senior Trump Administration officials who

01:04:12

supported having some investor-state dispute

01:04:14

settlement in that have to

01:04:16

pay again noting that Kenya

01:04:18

is not Mexico. Kenya is

01:04:19

not Canada it we're not

01:04:20

the same concerns about the

01:04:22

movement of jobs production to

01:04:24

Kenya. There were concerns about

01:04:26

rule of law and Kenya

01:04:27

are concerns about Chinese investment

01:04:29

in Kenya and using us

01:04:31

investment is backed by us.

01:04:33

Yes as a bulwark against

01:04:35

Chinese investment. Can you answer

01:04:36

these ideas were on the

01:04:38

table? And I think that

01:04:38

some of the same arguments

01:04:40

around rule of law around

01:04:41

pushing back against for example

01:04:44

Chinese investors, but not just

01:04:45

may be attractive and the

01:04:47

second Trump Administration. In a

01:04:50

second by demonstration. So the

01:04:52

dark clouds, I think the

01:04:53

dark clouds and a second

01:04:54

Biden the ministration are I

01:04:57

would say significantly darker than

01:04:59

under a trump to stop

01:05:02

the past three years have

01:05:03

been I think dispiriting for

01:05:05

supporters of ists the wild

01:05:08

a Vitamix tray. She has

01:05:09

not had to negotiate, you

01:05:10

know, an investment agreement and

01:05:12

had to make the decision

01:05:12

of including is yes, we're

01:05:14

not the president and his

01:05:17

staff have been very negative

01:05:20

around using tools like isps

01:05:22

to promote us investment until

01:05:24

I think the the clouds

01:05:25

are dark here again Personnel

01:05:27

will be key but none

01:05:28

the less. So the Silver

01:05:30

Linings second-term Democratic president when

01:05:35

you look at history, look

01:05:36

at President Obama's second-term democratic

01:05:39

presidents tend to be more

01:05:40

internationalist in their approach biting

01:05:43

himself is is may decide

01:05:45

to let his inner globalist

01:05:47

shine and second term. Including

01:05:50

President Biden reverse their positions

01:05:52

regularly. It happened last week.

01:05:54

You may follow the China

01:05:56

section 301 Terrace which the

01:05:58

president not only maintain but

01:06:00

decided to increase measurably go

01:06:03

back and look at what

01:06:03

President Biden said about the

01:06:05

China section 301 Terrace in

01:06:07

2019 more harsh on 301

01:06:10

Terrace. Then I'm going to

01:06:14

plan on making I think

01:06:15

this is important is there

01:06:17

is I think of pro

01:06:18

is yes narrative that may

01:06:20

appeal to whoever is in

01:06:22

the Biden Administration part 2.

01:06:24

I'll mention argument us competitiveness

01:06:27

us investors may not have

01:06:30

I access isds competing with

01:06:32

International investors in third jurisdiction

01:06:35

that do have access isds

01:06:37

that may resonate rule of

01:06:40

law arguments May resonate with

01:06:42

fighting to protecting Investments abroad

01:06:45

that are critical to the

01:06:47

green transition for sample investments

01:06:49

in critical. Mining, I may

01:06:51

be persuasive to a Biden

01:06:52

to team and finally Biden's

01:06:55

you have the chance to

01:06:56

to reshape or remake its

01:06:58

and its vision and there

01:07:00

are many different ways that

01:07:01

the Byzantine could decide to

01:07:02

do. So in in elevating

01:07:05

the importance of for example

01:07:06

environmental in labor protection in

01:07:09

the substantive rules other procedural

01:07:11

or rather a ice catcher

01:07:13

forms are tenable unimaginable. I

01:07:16

think I may be over

01:07:17
time but just in the

01:07:20
in the closing but this

01:07:21
discussion has been focused on

01:07:22
will there be in a

01:07:25
Biden or Trump to new

01:07:27
negotiations with ists? I do

01:07:29
want to highlight a few

01:07:30
separate discreet issues that either

01:07:33
of Biden or Trump you

01:07:35
will face that will force

01:07:36
them. Perhaps to address is

01:07:38
DS1 is the newest update

01:07:40
contacts. And that is that

01:07:42

folks who follow the usmca

01:07:44

may know that in 2026

01:07:46

under the treaty under the

01:07:48

agreement. There is a joint

01:07:51

review process will take place

01:07:52

where Mexico Canada and the

01:07:54

United States will sit down

01:07:55

and discuss the agreement. There's

01:07:58

a possibility that it could

01:07:59

be terminated. We can talk

01:08:00

about all the details of

01:08:01

that and I think what

01:08:03

the volume is rationed will

01:08:04

hear from many US investors

01:08:08

in Mexico in particular is

01:08:10

dissatisfaction in disappointment in a

01:08:13

range of sectors. They will

01:08:16

tell the administration that the

01:08:18

isds. The sort of narrow

01:08:19

is DS allowed under usmca

01:08:21

has not been effective. As

01:08:23

far as I know. There's

01:08:24

not been any is DS

01:08:26

cases brought by us investors

01:08:28

or Mexican investors under these

01:08:30

new USMC is dies rules

01:08:32

and there's also not been

01:08:34

any state to state science

01:08:35

elements of the United States

01:08:36

has the ability under usmca

01:08:38

to initiate claims that the

01:08:40

government against Mexico or Canada

01:08:42

on investment treaty issues. They've

01:08:44

not done. So since I

01:08:46

think the Biden team will

01:08:49

hear that from us investors

01:08:51

in the Biden team or

01:08:52

the Trump team. I should

01:08:53

say will have to assess

01:08:55

do we revisit the question

01:08:56

of narrow for skinny is

01:08:59

DSN usmca or not. I

01:09:01

will say that sometimes from

01:09:02

my perspective you need to

01:09:03

do something to appreciate its

01:09:05

value and it maybe the

01:09:07

after in 2026 both divide

01:09:11

into Trump teams will take

01:09:11

a fresh. Look at this

01:09:13

issue two more. Rita shoes

01:09:16

on social work degree. This

01:09:18

is a forum where folks

01:09:21

may know there is a

01:09:21

discussion around reform of is

01:09:23

dies rules including the notion

01:09:25

of creating a multilateral investment

01:09:28

Court. I think Mark mentioned

01:09:29

or a and or a

01:09:32

multilateral pellet mechanism. What would

01:09:35

Biden or Trump do you

01:09:37

hear in this is important

01:09:38

because I based on the

01:09:39

schedule in a 325 about

01:09:44

a year ago year from

01:09:45

now the working group is

01:09:47

slated to make a decision

01:09:48

on the investment court. So

01:09:50

the next Administration the United

01:09:52

States will decide its position

01:09:53

in the working group on

01:09:55

investment cord for an appellate

01:09:56

mechanism. It's July 26th in

01:09:59

my view. Neither Biden to

01:10:01

where Trump to is likely

01:10:03

to support either International Investment

01:10:06

court or an appellate mechanism

01:10:08

for a number of reasons,

01:10:09

including the most importantly the

01:10:12

US experienced in the WTO

01:10:14

around the tub. What mechanism

01:10:16

and I would say that

01:10:18

again having served in the

01:10:20

in the Trump Administration and

01:10:22

also the Obama Administration. I

01:10:24

know that both sides had

01:10:25

very serious concerns with a

01:10:28

multilateral investment Court viewing it

01:10:30

for sample is entrenching a

01:10:32

system in sitting on a

01:10:33

permanent status that they already

01:10:35

had difficulties with and also

01:10:36

questioning the head of democratic

01:10:38

accountability of a permanent Court.

01:10:42

One last discrete issue is

01:10:44

that the TC energy case

01:10:46

which is the ongoing exit

01:10:48

case involving the Keystone XL

01:10:50

pipeline 15 billion dollar claim

01:10:52

brought by Katie and Company

01:10:53

against the TC energy when

01:10:58

you look for that in

01:10:59

that arbitration is on going

01:11:01

right now looking at Trump

01:11:03

to my assumption is that

01:11:05

President Trump would restore TC

01:11:08

energy use permit to construct

01:11:10

the Keystone Pipeline. We don't

01:11:12

know this but that is

01:11:14

what he did the first

01:11:15

time around on the first

01:11:16

day in office. He reverse

01:11:18

the Obama administration's decision to

01:11:21

to to terminate that permit

01:11:23

until my assumption informed assumption

01:11:26

would be the Trump would

01:11:28

restore that permit that would

01:11:30

get rid of the arbitration

01:11:31

potentially. If you ever tration

01:11:33

is ongoing at the time

01:11:34

with respect to the vitamin

01:11:37
stration that is extremely unlikely

01:11:38
that they would decide to

01:11:40
reverse its position. And so

01:11:44
again if you arbitration is

01:11:45
ongoing and during the biking

01:11:47
to it's like that arbitration

01:11:48
would sort of go forward

01:11:50
jurisdiction of the merits and

01:11:51
I just I like this

01:11:52
and that in my closing

01:11:53
because this case I think

01:11:55
will be critical to the

01:11:56
next generation of US policy

01:11:58

making around investor-state certainly if

01:12:01

the US were to lose

01:12:02

this case, you know, 15

01:12:04

billion dollar claim touching on

01:12:05

your very sensitive public policy

01:12:08

space in the view of

01:12:09

certain folks that could mean

01:12:14

United States heavily against ice

01:12:15

chest in the future if

01:12:16

they were to win. We'll

01:12:17

have to see but all

01:12:20

of us are in return

01:12:21

to the great thank you

01:12:23

very much has been around

01:12:26

the world tour and as

01:12:28

Lauren said that I feel

01:12:30

so much better on everything

01:12:33

that's happening and we see

01:12:35

so many opportunities for Change

01:12:37

and transition or maybe sometimes

01:12:40

we're over we're over selling

01:12:41

those opportunities. Maybe things won't

01:12:43

be as dramatic as we

01:12:45

are happy to open to

01:12:51

questions from the floor. I

01:12:53

think we can take questions

01:12:55

online. Although I admit I'm

01:12:56

not entirely sure how I

01:12:57

guess who musing the chat

01:13:00

function and so so happy

01:13:03

too happy to hear from

01:13:05

from the rest of you

01:13:06

been listening. If you have

01:13:07

questions about some of the

01:13:08

particular comments that they made

01:13:09

about elections or four or

01:13:11

overall Trends Crossing these different

01:13:14

areas of the world. any

01:13:16

takers What's a share of

01:13:23

microphone with hi everyone? My

01:13:29

name is monia. I have

01:13:32

a question for whomever 12

01:13:34

to take it but it

01:13:35

could be forget Lila taken

01:13:38

into consideration that in Latin

01:13:41

America. The defense of the

01:13:42

state may change if there

01:13:44

is an election cousin's baby.

01:13:47

I do go schedule estado.

01:13:48

It doesn't change right would

01:13:51

you be let's say if

01:13:53

there's elections in 34 months.

01:13:55

I want to find my

01:13:56

request for arbitration. Would I

01:13:58

be better off waiting for

01:14:00

a new defense ever look

01:14:02

startled to come in and

01:14:04

maybe there will be more

01:14:05

sensitive to my case or

01:14:08

would you say it's better

01:14:10

to file very quickly with

01:14:12

the defense of the last

01:14:13

I'll do that, you know

01:14:14

is maybe a bit more

01:14:15

mature and has the has

01:14:17

its strategy or any other

01:14:19

team still there? Thanks for

01:14:26

the question. I I would

01:14:29

save you what's best for

01:14:31

your claim and for your

01:14:33

client and certainly taking a

01:14:36

consideration any periods of limitation

01:14:39

waiting on the right defensive.

01:14:44

Could put you into. Reading

01:14:49

tea leaves territory and no

01:14:53

that's not really a place

01:14:55

you want to be. So

01:14:57

let's say that you brought

01:14:59

your request for arbitration or

01:15:01

you you file the notice

01:15:02
with the current defensive style.

01:15:05
Well, it's going to you

01:15:07
know, it will change. I

01:15:08
don't I don't think there

01:15:10
would be even if you

01:15:11
think that you could Garner

01:15:12
some sort of benefit from

01:15:15
a future defense unit State

01:15:18
Defense unit. You will you

01:15:22
will likely get that if

01:15:26
there were some benefit you

01:15:27
could Garner from the incumbents

01:15:31
unit. It will be a

01:15:34

short left. Right? So, I

01:15:37
mean, I think it's I

01:15:38
think it's a really interesting

01:15:39
question to consider and then

01:15:41
certainly something to plop into

01:15:45
your risk-benefit analysis, but in

01:15:48
the end The defense unit

01:15:52
that you get is going

01:15:53
to be the defense unit

01:15:54
that you get and most

01:15:58
likely your there's not going

01:16:02
to be much that you

01:16:03
can do to really time

01:16:06
that in the best way

01:16:08
possible. You know, it could

01:16:11
be in turn Administration. I

01:16:15
mean, you know, I suppose

01:16:18
were were talking mostly about

01:16:20
Argentina here. You know Argentina's

01:16:25
defense unit has been known

01:16:27
for being in a particularly

01:16:28
aggressive in its defense of

01:16:31
the state. Will that change

01:16:33
under relay? I don't know

01:16:37
interesting interesting to consider, you

01:16:40
know, will they be more

01:16:41
likely to settle? I don't

01:16:44

know that would be parting

01:16:46

with a lot of tradition

01:16:49

virtually no state in the

01:16:52

world settles investment arbitrations or

01:16:55

certainly they don't settle them

01:16:57

on a very regular basis.

01:16:58

So even if you do

01:17:00

see a significant Administration change

01:17:04

from one party to the

01:17:06

other and the new party

01:17:08

is known as being much

01:17:09

more pro-business and maybe for

01:17:13

that reason might actually settle

01:17:15

with investors eventually the political

01:17:20

considerations around that kind of

01:17:22

come in it seems almost

01:17:25

every time and and and

01:17:28

really hinder us from openly

01:17:31

engaging in settlement negotiations with

01:17:35

another party. So I would

01:17:39

I would file your claim

01:17:41

when it makes most sense

01:17:42

for the client and not

01:17:44

really consider whether there's an

01:17:46

Administration change. Just want to

01:17:54

really follow you can fall

01:18:02

asleep set the rolling up

01:18:04
the drawbridge and and and

01:18:06
especially your comments are art

01:18:09
to that effect as well

01:18:10
as then now, they're threatening

01:18:12
to pull out of European

01:18:13
convention on human rights. So

01:18:15
just another example about what

01:18:17
I don't have a read

01:18:18
of his work your starter

01:18:19
is on on International Best

01:18:21
Buy reputation. Wondering if you

01:18:24
can give some insight into

01:18:25
the Yes, this is a

01:18:31

think perception which is shared

01:18:34

by a lot of observers

01:18:36

and no so I'm from

01:18:43

another contacts because of his

01:18:52

political Evolution, but Amy is

01:18:55

a pragmatist and he is

01:18:57

doing he is a little

01:19:01

refining his policy proposals are

01:19:04

significantly over if you compare

01:19:07

what he is saying you

01:19:09

will do now with what

01:19:10

he was elected on. And

01:19:12

as soon as the leader

01:19:15

of the Labour party a

01:19:16

few years ago is the

01:19:18

situation is quite different and

01:19:19

I think his instincts are

01:19:22

the desert and internationalist. Welcome

01:19:28

to invest in arbitration. I

01:19:29

think frankly there's a there's

01:19:32

a sense that they're bigger

01:19:34

and fish to fry and

01:19:37

this is not so much

01:19:38

on his agenda negotiating trade

01:19:43

agreements and investment is when

01:19:46

something restaurant rhaetian and my

01:19:48

concern is that it is

01:19:50
easy to to concede M

01:19:54
on on isds. It's it

01:19:57
has a signaling effect to

01:19:59
in particular kind of the

01:20:02
left wing of the party

01:20:03
on Saturday. So I think

01:20:05
there's a feeling particularly on

01:20:08
the basis of a europe-wide

01:20:10
sentiments entirely that we don't

01:20:13
we don't need it. It

01:20:15
doesn't do anything and neither

01:20:19
is that is something which

01:20:20
is believed in reality or

01:20:22

not. I think it's easy

01:20:23

to just conceived that what

01:20:25

I know is that there's

01:20:26

a Distance of concerted loving

01:20:30

efforts from Civil Society to

01:20:33

know just preclude the negotiation

01:20:36

of investment of attraction in

01:20:38

your agreement with those able

01:20:40

to terminate investment treaties between

01:20:42

the UK and other states

01:20:45

M A little pressure there.

01:20:49

I think even though that

01:20:54

the current government position visit

01:20:56

negotiation with Canada suggest the

01:20:58

dessert station to currently the

01:21:04

UK Canada agreement, which is

01:21:05

essentially the same agreement as

01:21:10

the EU, the agreement that

01:21:12

has eyes. Yes, but they

01:21:13

modernized post brexit UK kind

01:21:16

of agreement will not include

01:21:19

so I think that is

01:21:21

an indication as to where

01:21:22

things are going but it

01:21:24

does not mean that the

01:21:26

drawing of the the bridge

01:21:28

will continue in the same

01:21:30

way that that has been

01:21:31

unfolding with the current government

01:21:32

after the elections department, San

01:21:42

Antonio. Now you can hear

01:21:50

my question is is is

01:21:55

a related to or or

01:21:58

based on a premise that

01:21:59

I really I really want

01:22:01

you to prove me wrong

01:22:02

like based on the elections

01:22:04

that you're seeing Etc. So

01:22:07

it seems that that for

01:22:08

the past 10 15 years

01:22:10

we have been going on

01:22:11

at Randall's off of increase

01:22:14

that protectionism in the u.s.a.

01:22:19

Trump came and then came

01:22:23

by them and that protectionism

01:22:25

continued and that seems to

01:22:30

be the trend in the

01:22:32

world in general. And it

01:22:36

seems also that that there

01:22:38

is a slight tendency also

01:22:40

to get away from from

01:22:42

rule-based dispute resolution and More

01:22:46

in to diplomacy rule diplomacy

01:22:49

based dispute resolution. Have you

01:22:53

seen something different from everything

01:22:55

that you you have seen

01:22:57

and I really wish that

01:22:59

you say. Yes, you are

01:23:02

wrong sincerely any takers. Yes,

01:23:14

you were wrong. But I

01:23:15

think we observe my practice

01:23:17

and both in government and

01:23:20

an outside of government to

01:23:21

observe this. An increase in

01:23:24

this order protection isn't that

01:23:26

you're speaking of but in

01:23:28

the spirit of dark clouds

01:23:29

& Silver Linings a silver

01:23:31

lining that you might want

01:23:32

to think about is I've

01:23:34

been a delegate in working

01:23:36

for 3 for too long

01:23:38

for seven years since the

01:23:39

beginning of the negotiations and

01:23:41

I've always been impressed in

01:23:42

that process. This is a

01:23:43

process that is singularly about

01:23:45

reforming investment is DSL procedures,

01:23:50

right? And for the seven-year.

01:23:54

There's been an enormous expense

01:23:56
of time and effort and

01:23:58
the capital in trying to

01:24:00
improve the system. And this

01:24:02
is in the in the

01:24:04
global north-south every continent except

01:24:07
one baby. And I think

01:24:10
that to me that process

01:24:11
is a I don't want

01:24:12
to go too far and

01:24:13
I want to say it's

01:24:14
an endorsement of us dies,

01:24:16
but I do think it's

01:24:16
a recognition of the value

01:24:18

of the dispute settlement. That

01:24:19

should be much easier if

01:24:21

he's government rather than see

01:24:23

Spend enormous time and resources

01:24:26

negotiating Improvement easier for these

01:24:29

governments to denounce their treaties

01:24:31

or to step out of

01:24:32

the system and there are

01:24:33

states. Obviously, they're doing that

01:24:34

with the Baltic states see

01:24:36

the system is valuable and

01:24:37

want to improve it. It's

01:24:38

an evolutionary system. It's a

01:24:39

relatively new system in the

01:24:41

scheme of international law and

01:24:42

relations into that is when

01:24:44

I when I having difficulty

01:24:46

sleeping tonight thinking about our

01:24:48

practice investment treaties ice. Yes,

01:24:50

I cover myself with that

01:24:52

with with the process than

01:24:54

the commitment to be states

01:24:55

of Sean improving the system.

01:25:00

Well, I think I do

01:25:03

think if there is a

01:25:05

silver lining certainly you might

01:25:07

find a bit in in

01:25:08

Latin America with respect ice.

01:25:11

Yes, that's that's going to

01:25:12

be a region where where

01:25:14

it is still alive and

01:25:15

well with a few exceptions

01:25:16

of some Steve some Latin

01:25:19

American states pulling out of

01:25:20

of ifes agreements with respect

01:25:26

to protection as you know,

01:25:28

and I labeled it as

01:25:29

populism that has a nationalism

01:25:32

in protectionism Bend. That seems

01:25:35

to be Universal but you

01:25:38

know what the next question

01:25:40

is. Will it go beyond

01:25:43

just just have to listen

01:25:46

to protectionism. And are you

01:25:48

going to see States withdrawing

01:25:50

or rescinding their support for

01:25:54

for is DS and at

01:25:56

least so far in Latin

01:25:58

America most most countries are

01:26:02

are hanging on and and

01:26:04

I wonder if if in

01:26:06

the United States, it's just

01:26:08

going to remain out of

01:26:11

stasis. Perhaps no more do

01:26:14
treaties with us. Yes, but

01:26:16
we're just going to maintain

01:26:18
the status quo. I agree

01:26:21
with Lauren but you know,

01:26:24
we're probably not going to

01:26:26
see much support for it,

01:26:29
but I don't but I

01:26:30
don't see the United States

01:26:31
enjoying its tax drastically now

01:26:37
depending on the incoming Administration.

01:26:42
And then you start to

01:26:44
wonder if you have a

01:26:45
if you have a traffic

01:26:47

to vs. Biden to come

01:26:50

to would be you know

01:26:54

up an administration led by

01:26:55

someone who's not particularly fond

01:26:58

of the rule of law.

01:26:58

So, you know, he likes

01:27:00

to make deals not not

01:27:03

so good on the rule

01:27:04

of law concept. So what

01:27:06

happens in that Administration could

01:27:08

actually foments a number of

01:27:11

investment issues and I I

01:27:15

don't think that the United

01:27:17

States is going to allow

01:27:18
of of all of these

01:27:21
investment agreements, but but who

01:27:23
knows Anybody have any other

01:27:31
glimmers of hope that lie

01:27:34
no one last question may

01:27:37
be a minute or two

01:27:39
left. Alright, well then maybe

01:27:44
we will wrap up we

01:27:46
can Circle back next year

01:27:47
and see if any of

01:27:48
you understand forgot bring ostentation

01:27:50
was correct and see where

01:27:52
we've landed. I want to

01:27:55

thank you more and miss

01:27:56

you very brave and you

01:27:59

know got to the heart

01:28:00

of this matter in our

01:28:01

panelists also for excellence in

01:28:04

their assessments. I think we'll

01:28:06

be back next year and

01:28:07

see how this went. So

01:28:10

thank you. I asked the

01:28:11

group here to give thanks

01:28:13

to our panel has a

01:28:15

nice round of applause. We

01:28:20

are going to take a

01:28:21

break now for about a

01:28:22

half-hour and we have very

01:28:24

practical panel coming up at

01:28:25

3 on drafting memorials, and

01:28:30

I'd invite folks to come

01:28:31

back in the half-hour and

01:28:33

thank you very much for

01:28:36

everyone attending online and here

01:28:38

in person. We do have

01:28:40

another few days of programs

01:28:43

or tomorrow morning. We have

01:28:45

a program from Singapore than

01:28:47

one from India, and then

01:28:49

on Wednesday and Thursday, we

01:28:51

complete with a program from

01:28:53

Warsaw and then from Bogota,

01:28:56

so we have a busy

01:28:58

conference still to complete, but

01:29:00

we're about halfway there, and

01:29:01

this was a great opportunity

01:29:03

to hear from the great

01:29:05

group of folks. So thank

01:29:06

you very much and will

01:29:07

see you at the next

01:29:08

conference. Thanks word.