

## Status and Perspective of the Belt and Road Initiative (BRI) in International Arbitration \*

### Summary

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

The Washington Arbitration Update (WAU) session focused on the Belt and Road Initiative (BRI) and its implications for international arbitration. The discussion was moderated by Professor Yu Dingdong, a prominent figure in international law and arbitration in China. The BRI, launched in 2013, aims to enhance economic connectivity and cooperation across over 150 countries, significantly impacting global trade and investment.

Key challenges in BRI-related projects include managing multiparty disputes, technical complexities, and political risks. The panel highlighted the importance of arbitration in resolving these issues, as it allows for the selection of arbitrators with the necessary expertise and facilitates the handling of foreign laws. Furthermore, the discussion emphasized the need for harmonizing dispute resolution frameworks across different jurisdictions involved in BRI projects, as inconsistencies can lead to conflicting awards.

Technological advancements, particularly in online dispute resolution, were noted as potential tools to increase efficiency in arbitration processes. The geopolitical landscape, characterized by tensions between the U.S. and China, was also identified as a factor likely to influence the frequency and nature of disputes arising from BRI projects.

The panelists discussed the significance of mediation as a preferred method of dispute resolution in Chinese culture, advocating for its increased use in BRI projects. They argued that mediation could help preserve business relationships and facilitate successful investments, contrasting it with the often adversarial nature of arbitration.

Overall, the session underscored the evolving nature of international arbitration in the context of the BRI, emphasizing the need for adaptability and innovation in addressing the complex legal and procedural challenges that arise from this ambitious initiative.

### Authors

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## Topics

Belt and Road Initiative, International Arbitration, Arbitration, China

## Category

WAU

## Full Transcript

00:00:03

Welcome at 2 our star

00:00:06

third session of world arbitration

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update. China Insight so it's

00:00:14

a great pleasure to have

00:00:15

our third panel. This afternoon.

00:00:21

and I am I would

00:00:30

like to give some some

00:00:33

information with respect to our

00:00:37

esteemed moderator. End up with

00:00:51

with that happened before before

00:00:53

getting into that. I'd like

00:00:56

to give a big shout

00:00:58

in terms of the topic

00:01:00

that this panel will be

00:01:01

addressing. It is the status

00:01:03

and perspective of the belt

00:01:06

and Road initiative Bri in

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international arbitration as as we

00:01:14

all know the belt and

00:01:16

Road initiative is is part

00:01:19

of the import of the

00:01:20

economic policy of of an

00:01:23

trade and and also investment

00:01:25

policy of China, but he

00:01:27

has so far had the

00:01:28

influence in many many countries

00:01:31

that are included in the

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belt on Dunn Road and

00:01:37

being from South America, but

00:01:38

also from the US I

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can see that influence throughout

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especially in many countries in

00:01:46

Latin America, but also in

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Africa and Asia and The

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question came to us in

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terms of its influence in

00:01:54

international arbitration because as we

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know there's there's many many

00:01:57  
many dispute resolution systems within

00:01:59  
the belt and Road initiative

00:02:01  
not only arbitration but special

00:02:04  
courts excetera. So on this

00:02:06  
occasion we have and will

00:02:08  
put together a panel to

00:02:10  
address those issues, especially in

00:02:12  
arbitration. So it is my

00:02:14  
pleasure to introduce our moderator

00:02:17  
who is Professor you ding

00:02:22  
dong at who is a

00:02:24  
professor of international law and

00:02:27  
he is also the director

00:02:29  
of international economic law at

00:02:32  
the department of the institute

00:02:33  
for international law of the

00:02:35  
Chinese Academy of social sciences

00:02:37  
is also the vice president

00:02:39  
of the WTO law research

00:02:41  
Society of China Law Society

00:02:44  
and he is Vice President

00:02:45  
of China's arbitration Law Society

00:02:47  
and I will stop there.

00:02:49  
Cuz I don't want to

00:02:50  
eat more of his time.

00:02:52  
So with us you have

00:02:55

the floor professor. Medicines for

00:03:02

of Nazareth to introduce myself

00:03:04

to all of you and

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that it's my pleasure to

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be here to be done

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and just introduced the the

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background and the meaning of

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The Sopranos coffee. So I

00:03:28

first I would like to

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use wipes panels presenters will

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see what type of speech.

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Thank you. Thank you for

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us to leave. Good afternoon,

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distinguished guests ladies and gentlemen,

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I'm delighted to be here

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today to deliver an opening

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for this session status and

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Prospects of the belt and

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Road initiative in international arbitration.

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She in 2013 is a

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Grand Vision that encompasses the

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Silk Road economic belt and

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two 21st century Maritime Silk

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Road is aimed at enhancing

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policy coordination Financial economic and

00:04:25

trade integration and fostering connectivity

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between people and cultures. A

00:04:31

decade on the Bri has

00:04:33

achieved tremendous progress. Cumulative economic

00:04:36

engagement has reached over 1

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trillion u.s. Dollars one more

00:04:40

than 150 countries have signed

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on to the PRI framework.

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These underscore the initiative significant

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impact and reach in shaping

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global economic landscape. Given the

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brics scale and complexity These

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Boots are bound to arise

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and have indeed a reason.

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He's having company resolved through

00:05:02

International arbitration. In the next

00:05:04

few minutes, I will seek

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to briefly reflect on some

00:05:08

of the past and present

00:05:09

issues in DIY projects how

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I betray Sheehan has reflected

00:05:14

has helped parties to navigate

00:05:17

them. What issues out on

00:05:18

a Verizon? One major challenge

00:05:24

in DIY projects we've seen

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it. It's the management of

00:05:27

multiparty disputes a single event

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in trigger claims across different

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layers of the contract resulting

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in a multiplicity of proceedings

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involving parties ranging from host

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governments lend us or the

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companies contractors than this any

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Shores. Arbitration possibly addresses these

00:05:50

of them as major institutions

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provide rules and complex arbitration

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such as consolidation joined the

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commencement of single arbitration under

00:06:00

multiple contracts and concurrent proceedings.

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Alberto institutions are also developing

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jurisprudence based on their experiences

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in managing such issues. Is

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house in some ways mitigated

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time and cost concerns for

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commercial parties and the risk

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of inconsistent outcomes? Another challenge

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especially relevant to dispute resolution

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is a technical nature of

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Bri projects. Adjudication parties claims

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requires a degree of technical

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understanding of the industry and

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the projects themselves a simple

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non-payment under a power purchase

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agreement for example, and give

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rise to complex technical issues

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of how power plants operate

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and underline science of power

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production. Arbitration allows parties to

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select arbitrators with the requisite

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expertise to handle the case.

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You made them the confidence

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that they needs and knowing

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that their claims are in

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capable hands. You should have

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crossed for the nature of

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your eye projects resolving disputes

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also require experience and expertise

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in foreign laws. It may

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not be a straightforward exercise

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for domestic court's especially in

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developing countries. In contrast, the

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identification and application of foreign

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law is a regular feature

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in international arbitration. abuniverse in

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Council of Miller with now

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well-placed to handle multi-jurisdictional disputes

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Is that a challenge with

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Bri projects is managing political

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risks with in-house countries many

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projects which have long life

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cycle a vulnerable to the

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impact of changing host governments

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is often leads to consequential

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changes of tax and Licensing

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regimes as well as political

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instability, and I'm breast. Treaty

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arbitration has played a role

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in mitigation of these risks

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protecting investors from expropriation and

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other unfair treatments. I'll ask

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for investment treaties concluded by

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China with many Bri countries

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include investor-state dispute settlement mechanism

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provides an Avenue for grad

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parties to seek recourse against

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host States and I just

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ran to the contractor remedies.

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These are just a few

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of the Myriad challenges faced

00:08:23

by stakeholders and Bri projects

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has so far been effective

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in resolving related disputes. It

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must continue to evolve in

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order to remain fit for

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purpose. Looking ahead arbitration would

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likely need to Prattville with

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amongst others three key issues.

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The first is harmonizing the

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dispute resolution framework. As mentioned

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earlier, our projects often involves

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many countries each with his

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own legal system practice and

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pace of development. Jesus letra

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complexities and uncertainties in terms

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of legal outcomes 20 supposed

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to rise identical issues could

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be treated differently under related

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contracts depending on the applicable

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law mean while the degree

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of domestic court support of

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empowered to a top attraction

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in also very greatly across

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Bri countries. To further complicate

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matters related to arbitration agreement

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agreements may not necessarily be

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compatible events and consolidation of

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proceedings and increasing the risk

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of conflicting Awards. As investment

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find it becomes more volatile

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if it's at all levels

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and hence predictability and consistency

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in the outcome of this

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resolution will be crucial. The

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second issue is the future

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impact of digital transformation. Technological

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advancement can revolutionize the way

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in which be alright disputes

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are resolved. One important trend

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is the development of online

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dispute resolution, which adopts distributed

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Ledger technology and smart legal

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contracts. Ensure availability and quality

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of evidence used in arbitration

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between perennials records can be

00:10:10

accessed and verified on a

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blockchain platform. Once an award

00:10:16

is rented funds from an

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escrow account can be automatically

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released to the winning party.

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These are just a few

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examples through which efficiency of

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arbitration and enforcement of word

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can be greatly enhanced. Is

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that issue concerns the ongoing

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shifts of geopolitics? Us China

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tension Regional conflicts and economic

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sanctions in recent years. I've

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let it be alright if

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I cross the contract. These

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issues got the pace. The

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number of disputes is bound

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to increase in the coming

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years. It's National application has

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she would agree responded to

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these developments? For example Alberto

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institutions Implement extension policies including

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on disclosure of sanction related

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information and payment arrangements to

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meet a sanctions risk. The

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greater and Foster adaptation is

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needed to ensure the arbitration

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remains a suitable means to

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resolve future disputes. Overall the

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belt and Road initiative with

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his vast scope and ambitious

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Vision has presented complex and

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multifaceted challenges. It has tested

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the resilience and adaptability of

00:11:33

existing dispute resolution process. It

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will be interesting to see

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how a patrician with his

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inherent flexibility and capacity for

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Innovation will adapt to the

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changing needs of commercial parties

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and logical progress and geopolitics

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on that note. I will

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now pass the time back

00:11:52

to mr. Leo the moderator

00:11:54

for this session to introduce

00:11:55

our panel of distinguished speakers.

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Thank you. Thank you, Missy.

00:12:01

I forgot introduce the multi

00:12:05

Mark. He is supporting lawyers

00:12:08

from the Herbert Smith freehills.

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It's very young and very

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humorous lawyers. You can speech

00:12:19

introduce the Belden Road ground

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background and very important meeting

00:12:26

for the international Retreat and

00:12:28

he wants them and he

00:12:31

gave us a lot of

00:12:34

information than a knowledge about

00:12:38

a challenge risk some important

00:12:46

issues like the TT 250

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to information transfer a deal.

00:12:51

Especially a focus on the

00:12:56

arbitration and other illegal tools

00:13:02

to handle disputes and other

00:13:06

legal issues in belt and

00:13:08

Road initiative. Thank you. Thank

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you for your very good

00:13:13

speech. And all about the

00:13:17

Centre of nysers international a

00:13:22

between updates to give us

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the very important and valuable

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a chance to talk about

00:13:29

the arbitration the relationship between

00:13:32

application and the b&i initiated

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in or I know we

00:13:39

have the three very famous

00:13:41

a treat her or lawyers

00:13:44

to talk about this topic.

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The first one is over

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in the whole. He's a

00:13:52

partner had the office incense

00:13:57

Manson Hong Kong. ont you

00:14:03

have the 15 minutes. Thank

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you mister new and thank

00:14:07

you Mercy for that great

00:14:09  
opening. Basically Murphy touches the

00:14:12  
point of all this very

00:14:14  
fascinating and dynamic at-bats in

00:14:18  
the arbitration that made many

00:14:24  
of our arbitro protection is

00:14:27  
very interested in this developing

00:14:31  
area. I was involved in

00:14:35  
the first and then we'll

00:14:36  
put that back in 2015

00:14:38  
which sadly became in arbitration.

00:14:41  
And one thing that I

00:14:45  
like about the bone roll

00:14:47  
flipping is arbitration petition as

00:14:51

you got to travel to

00:14:53

many different countries and jurisdictions

00:14:56

that you never heard about

00:14:58

all that you can barely

00:14:59

find on the map so

00:15:02

is in very interesting feature

00:15:05

and before I pick up

00:15:07

some of the topics mansion

00:15:10

by Murphy and dive into

00:15:11

it. I just want to

00:15:13

raise one housekeeping Masa. I

00:15:16

mean a man a man

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panelist and with mr. New

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agreement will be opening the

00:15:22

floor for Q&A after each

00:15:25

other panelists giving their speeches.

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So I will challenge you

00:15:29

to bring up some interesting

00:15:31

questions. 2 oz Paco into

00:15:34

a dynamic discussions after our

00:15:38

sharing To contribute to today's

00:15:43

panel discussion on the status

00:15:46

and perspective of the paramour

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arbitration. I would like to

00:15:50

pick up to keep one's

00:15:52

just mentioned by Murphy Lee

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station of procedural rules and

00:15:59

also the trooper electrical tension

00:16:04

that we are now seeing

00:16:06

in the arbitration and I

00:16:13

was just like to make

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free observations as to going

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forward how we can make

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a patrician and even more

00:16:21

attractive option to all parties

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involved in in Bernville operations

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or open road projects. I'm

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going to start with one

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thing that I think the

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arbitral community is already doing

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pretty well. I mean these

00:16:40

days we see that many

00:16:41

arbitration petition is an arbitration

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procedure rules in the Barren

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Road projects have been paying

00:16:50

a lot much better. We

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got to the cultural and

00:16:54

legal tradition differences between the

00:16:59

East and the west and

00:17:00

the mini Hanover hundred jurisdictions

00:17:03

that the brand will profess

00:17:05

landscape cover. I still remember

00:17:08

when I first work on

00:17:11

the ICC arbitration for a

00:17:13

Chinese clients in one of

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the earlier by a project

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it had taken us quite

00:17:19

a while to explain to

00:17:20

them all the different concepts

00:17:21

about document production. That means

00:17:24

someone like to refer it

00:17:25

as Discovery the purposes of

00:17:28

lighting. Witness accidents on the

00:17:30

concept of testing someone after

00:17:32

them through cuz examination one

00:17:37

of the witnesses was so

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nervous that like she was

00:17:41

not able to sleep for

00:17:42

a few days before going

00:17:44

to give evidence in court

00:17:45

it mean if we had

00:17:47

this panel maybe five years

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ago with this will be

00:17:50

what we are talking about

00:17:51

fast forward to where we

00:17:55

are these days. I think

00:17:58

I'm very pleased that when

00:18:01

we now have Parham Road

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Project dispute with a mediation

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electrician's I think the host

00:18:09

the arbitrators and the legal

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petition is are increasingly sensitive

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to all this cultural differences,

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and I'm more willing to

00:18:17

harmonize are such differences and

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find common grounds in the

00:18:22

arbitration process. These days the

00:18:25

arbitration rules provide a lot

00:18:28

of flexibility to accommodate the

00:18:31

different cultural values. It is

00:18:33

not uncommon for a trailer

00:18:36

still stays to give directions

00:18:38

to last day to keep

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document production to a minimum

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to keep the testing of

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a oral accidents only to

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Siri I extend and when

00:18:51

it comes to arbitration hearing

00:18:53

arbitrators quite often with my

00:18:56

Advocate, especially at maybe from

00:18:59

the stakes are not to

00:19:00

be unnecessarily aggressive and dramatic

00:19:03

and they are more sensitive

00:19:05

as to how some of

00:19:08

the demeanor of Chinese witnesses

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witnesses in many Eastern Asian

00:19:16

countries, May differ from the

00:19:19

West End and how their

00:19:20

credibility should be assessed. Music

00:19:24

sample, it is not the

00:19:26

Chinese Palace custom to prepare

00:19:29

very lengthy speech 00 documents

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are comprehensive cooperation, and they

00:19:36

are in general more reluctant

00:19:39

to express disagreement in in

00:19:41

meeting. But I think there

00:19:46

is still a mean Murphy

00:19:49

talk about looking forward at

00:19:52

the challenges. I think there

00:19:53

is still one thing this

00:19:56

a true Community can do

00:19:57

better which is the procedure

00:20:00

management and the police expectation

00:20:04

on time and cost of

00:20:05

arbitration. I mean this problem

00:20:07

doesn't show me apply to

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perrinville arbitrations, but is more

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important because of the cultural

00:20:19

background that we are coming

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for arbitration to be the

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most attractive option for resolving

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disputes two parties in Paramore

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projects. It has to be

00:20:31

efficient and timely I didn't

00:20:33

we we we don't disagree

00:20:34

with that. But I I

00:20:37

I find that part is

00:20:39

to arbitration Fair often after

00:20:41

concluding out you in the

00:20:43

process of On by the

00:20:45

tuition and cost of arbitration.

00:20:48

I mean when was the

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last time that you had

00:20:51

an arbitration that doesn't delay

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or late application to a

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man memorials or had a

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further application to refuse life

00:21:01

for no accidents or expire

00:21:03

evidence in a wholly new

00:21:05

area extensions of time. I

00:21:08

mean as petitioners doing arbitrations,

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we all take it for

00:21:13

granted and sometimes it's an

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avoidable, but when party's subscribe

00:21:19

to a set of arbitration

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lose with very specific time

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frames It's quite difficult to

00:21:28

explain two parties as to

00:21:31

why the tribunal usually is

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still very accommodating in Grant

00:21:36

a name for your multiple

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extension of time. So I

00:21:40

are at ease in in

00:21:42

in in this side of

00:21:44

the wall, maybe like given

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to a for two parties

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to have reasonable opportunity more

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than reasonable. I would say

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for for for for presenting

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the case but maybe 40

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Projects parties are expanding the

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arbitrator to be driving at

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managing the arbitrations with a

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greater degree of control. And

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that's something that I think

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we can do better and

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obviously it's a topic for

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discussion. And I mean the

00:22:25

last thing I would like

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to mention his voice Ways

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by Murphy about the geopolitical

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situation that we are now

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facing. And given the very

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large footprint of the Parham

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Road projects and the last

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number of countries and jurisdictions

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in war the interaction between

00:22:46  
two parties arbitration agreements and

00:22:50  
and the award and arbitration

00:22:52  
process on one hand. And

00:22:54  
what each of the police

00:22:57  
may be doing in the

00:23:00  
court of the home jurisdiction

00:23:02  
of the arbitration or or

00:23:06  
or even the seat of

00:23:08  
the enforcing Court can be

00:23:10  
very complex and indeed very

00:23:12  
interesting. I mean local courts

00:23:14  
can be engaged at different

00:23:17  
stages of the arbitration process.

00:23:19

At the start you have

00:23:21

gestational challenges and t-shirts in

00:23:24

injunctions throughout the process local

00:23:27

Court can issue a tantrum

00:23:29

with Leaf affecting the arbitration

00:23:31

process after obtaining a water

00:23:34

can be a problem process

00:23:36

of resisting enforcement and at

00:23:38

various courts. Murphy mention about

00:23:43

the need to involve more

00:23:46

fun. No expertise. I cannot

00:23:49

agree with that more. I

00:23:51

I find a over the

00:23:52

years. I have been connecting

00:23:54

with so many law firms

00:23:56

or different jurisdictions because of

00:23:58

the need to obtain a

00:24:00

piece of opinion as to

00:24:01

walk arbitrations means to a

00:24:05

particular jurisdiction and how the

00:24:07

award can be challenging Reese's

00:24:09

in many different ways and

00:24:12

wishing you at work on

00:24:14

it and where one of

00:24:17

the parties command Court proceedings

00:24:19

expired assistance and and the

00:24:22

ongoing process of an arbitration.

00:24:24

Although the arbitrator in our

00:24:26

case has already issued in

00:24:29

Trump will leave everything for

00:24:31

the steps to be taken

00:24:32

in that domestic call, but

00:24:35

because of some sanctions issues

00:24:38

involved at the domestic court

00:24:40

just do Keep any we

00:24:41

got to the arbitrator's all

00:24:43

that and just proceed with

00:24:45

the the cases. We got

00:24:46

Leslie so it can result

00:24:48

as we already expanding multiple

00:24:51

now proceeding and Asthma Murphy

00:24:55

mention a conflicting judgments conflicting

00:24:58

Awards and conflicting out come

00:25:00

I have to say, I

00:25:02

mean those issues are very

00:25:04

interesting for our betrothal petitioners.

00:25:07

ThunderClan perspective is far from

00:25:10

satisfied satisfaction. But I mean,

00:25:14

this is something that we

00:25:15

all have to live with

00:25:17

and we don't have a

00:25:18

lot of control because of

00:25:20

the growing tensions that we

00:25:22

are witnessing in the world

00:25:24

which in a sense has

00:25:26

affected how International arbitration inbound

00:25:29

will operation will be conducted.

00:25:33

So I will now hand

00:25:34

over to you. Thank you.

00:25:41

And Q open speech to

00:25:45

Alden she heard he's a

00:25:47

very good experience and practices

00:25:51

in the Nashville area. And

00:25:55

the most interesting thing for

00:25:59

me is that you referred

00:26:03

to hominization of the international

00:26:05

arbitration procedure and how to

00:26:09

handle the difference of the

00:26:11

cultures and different country different

00:26:13

customers. I think it is

00:26:17

very very complex problems for

00:26:21

the international arbitration cross-examination. You

00:26:27

could forward to China the

00:26:32

Chinese have a different outer

00:26:36

reach the Western culture. I

00:26:40

think it's important for us

00:26:43

to harmonize the difference between

00:26:47

the difference between the different

00:26:51

countries people in the cultures

00:26:52

and we shoot. Supports the

00:26:58

mother law of arbitration use

00:27:01

to harmonize the different countries

00:27:04

arbitration rules so we can

00:27:07

talk about this topic maybe

00:27:09

up to the station and

00:27:11

the thank U. Next speaker

00:27:14

is Teresa Chen. I don't

00:27:17

wish to introduce Mary Morris.

00:27:22

Did they know he is

00:27:25

he is he always Abbott

00:27:33

recent areas, especially car Council

00:27:36

and the Very femurs between

00:27:40

her and the lawyers. She

00:27:42

is seeing their Council of

00:27:44

Hong Kong in the chambers

00:27:46

of the Sony Packers kneel

00:27:50

you see I see you

00:27:52

pee at one time to

00:27:56

you. Thank you. Nonetheless some

00:28:00

team do for that very

00:28:02

kind introduction after you said

00:28:04

you were not introduced me.

00:28:07

What I would like to

00:28:10

do in the time allotted

00:28:11

to me is perhaps to

00:28:13

ask you all to look

00:28:14

at the topic again that

00:28:16  
we had to cover. I

00:28:17  
think it is not just

00:28:19  
about International arbitration. It is

00:28:23  
actually the status and Prospects

00:28:25  
of the Bri in international

00:28:28  
arbitration. So it is really

00:28:30  
the status and Prospects of

00:28:33  
PRI that we ought to

00:28:34  
be focusing in and but

00:28:37  
none the less, of course

00:28:38  
in the context of the

00:28:39  
international arbitration know when we

00:28:43  
talk about what's the prospects

00:28:45

we are looking at the

00:28:46

prospects of the lawyers will

00:28:47

arbitrator or the prospects of

00:28:50

the uses of the prospects

00:28:52

of the completion of the

00:28:53

particular project under a BRI

00:28:56

project. So these are things

00:28:59

that actually the topic is

00:29:00

very Broad and actually because

00:29:03

with that in mind I

00:29:04

wish to move a little

00:29:06

bit away from International arbitration

00:29:09

is done for the haps

00:29:10

what other ways there are

00:29:12

in handling Bri projects. I

00:29:14

think it has. Social be

00:29:18

touched by the farmers speakers

00:29:20

the next think I think

00:29:23

to to try and discuss

00:29:25

this subject we have to

00:29:27

think about the types of

00:29:28

projects are types of contracts.

00:29:31

That's with the rice and

00:29:32

Bri projects. Usually we think

00:29:35

and they offer major infrastructure,

00:29:37

but surely we are aware

00:29:38

that it couldn't shoot hospitals

00:29:41

building a school Visa Road

00:29:44

Bri projects because it is

00:29:46

with the view to and

00:29:47

I think he mentioned it

00:29:49

with a view to perhaps

00:29:50

create a harmonious society and

00:29:54

indeed it aligns very much

00:29:56

with the 2030 agenda of

00:29:58

the United. Nations of sustainable

00:30:03

development goal that is to

00:30:05

create how many peaceful coexistence

00:30:07

and so on. So I

00:30:08

think the types of projects

00:30:10

is very proud and maybe

00:30:12

I must say with some

00:30:14

construction projects in mind then

00:30:17

the next thing to look

00:30:18

at is perhaps the Locale

00:30:19

of this project is now

00:30:21

we cannot I'm sure my

00:30:23

my colleagues can not tell

00:30:24

them where the projects are

00:30:25

because then it could be

00:30:27

divulging the confidence of the

00:30:29

arbitration but we know that

00:30:30

a lot of them are

00:30:31

Mexican and the Central Asian

00:30:35

States and so one would

00:30:37

expect some of these disputes

00:30:39

arising from these areas. And

00:30:41

of course, we know that

00:30:42

the the contractors that is

00:30:45

all the concession that mainly

00:30:48

Chinese companies. That that is

00:30:53

the context. I think we

00:30:54

are looking at when we

00:30:55

talkin about these types of

00:30:56

projects. Now, I will mention

00:30:59

a few things that I

00:31:00

think we need to look

00:31:03

at. When when we talkin

00:31:05

about International arbitration as my

00:31:07

colleagues have I think mentioning

00:31:10

the multi-party one of the

00:31:12

very great difficulty that I

00:31:14

think of confession as a

00:31:17

participant seen Bri projects have

00:31:20

is to ensure compatibility of

00:31:23

the arbitration closes. Compatibility

00:31:26

in the main contractor and

00:31:28

subcontractor arbitration clauses is actually

00:31:31

very important because without that

00:31:34

you cannot have consolidation and

00:31:36

one of the difficulties, I

00:31:38

understand from people who have

00:31:40

been involved in this project

00:31:41

is that the main contract

00:31:43

usually dictated in terms of

00:31:46

terms and as a as

00:31:47

a negotiating Power by the

00:31:48

employer therefore it tends to

00:31:51

be something that perhaps the

00:31:53

chinese-made contractor or the Chinese

00:31:55

concessionaire is not entirely familiar

00:31:58

with for example using English

00:32:00

law, for example, adopting a

00:32:04

a an arbitration in a

00:32:07

place that is not so

00:32:09

familiar to the Chinese parties.

00:32:11

Now that the difficulties comes

00:32:13

is the subcontractor usually hands

00:32:16

also to be a Chinese

00:32:17

company provide think Manpower. They

00:32:21

would probably be hotly dealt

00:32:23

with through an albatraoz. BAC

00:32:26

for exams for example, but

00:32:28

in order to ensure that

00:32:30

the compatibility of the arbitration

00:32:32

Agreements are reached in the

00:32:34

event of a need to

00:32:35  
consolidate that will then necessitate

00:32:39  
the whole network of contracts

00:32:43  
involved in a PRI project

00:32:45  
to be looked at and

00:32:47  
work together. So that compatibility

00:32:49  
is a chief and if

00:32:51  
need be to bring in

00:32:53  
a particular consolidation when arbitration

00:32:57  
rice now on the question

00:32:59  
of substantive law, I think

00:33:02  
both Elvin and most he

00:33:05  
mentioned sanction that support questions

00:33:08  
that could arise in their

00:33:09

work. No one very interesting

00:33:11

thing and I think that's

00:33:12

important to bear in mind.

00:33:13

It's quite interesting little story

00:33:15

and I cannot divulge the

00:33:17

names of the countries of

00:33:18

the parties country a has

00:33:21

sanctioned a financial institution in

00:33:24

country. country B's legal advice

00:33:29

is that the contracts of

00:33:32

that financial institution can no

00:33:35

longer apply the laws of

00:33:37

country a So that's of

00:33:41

course may not be the

00:33:42

same in every jurisdiction. But

00:33:44

that is quite and lightning

00:33:46

in terms of ensuring that

00:33:48

your your contracts and and

00:33:50

the applicable law but then

00:33:52

be a Delta sensor play

00:33:54

the next thing with International

00:33:57

arbitration is of course just

00:33:59

now we mentioned maybe generally

00:34:01

government or perhaps requested by

00:34:05

the employer as a dwell

00:34:08

in the Construction contract is

00:34:10

the seat of the arbitration.

00:34:13

If there is a chance

00:34:14

for Chinese companies to be

00:34:16

able to negotiate, please negotiate

00:34:19

with in the time zone

00:34:21

that you are familiar with

00:34:22

rather than to travel to

00:34:24

Paris or to other parts

00:34:27

of the world. I love

00:34:28

Paris by the way, huh.

00:34:29

I would love to Paris

00:34:31

to shopping and eating and

00:34:33

arbitrating a swell time zone

00:34:36

is very important choice. It's

00:34:38

a small choice, but it's

00:34:39

a very important choice because

00:34:42

it will affect how you're

00:34:44

going to handle the documents

00:34:46

that you might need to

00:34:47

dig up in the middle

00:34:48

of the night in order

00:34:50

to prepare for being cross-examined

00:34:52

of cross-examining the other side

00:34:54

in the middle of a

00:34:56

hearing and therefore, these are

00:34:58

small Logistics, but it's very

00:35:00

simple advice. I would suggest

00:35:01

would be that Astoria time

00:35:04

I tell again relating to

00:35:07

Bri is when parties negotiates

00:35:11

on the choice of the

00:35:13

institution. Usually we have institutional

00:35:16

application nowadays. I talk it's

00:35:19

it's a it's more of

00:35:21

a historical feature. So they

00:35:23

were negotiating the relevant institution

00:35:26

to try and find the

00:35:28

the place the seat for

00:35:30

arbitration with the relevant to

00:35:32

the story. I heard is

00:35:34

that Trump say the employer

00:35:36

would ask That's already the

00:35:39

Chinese companies would suggest okay,

00:35:41

let us go to and

00:35:43

then again, I won't name

00:35:44

the particular occasions. They would

00:35:46

say this particular institution another

00:35:49

one another one and the

00:35:51

tends to be in in

00:35:52

particular in African States because

00:35:54

they are unfamiliar with this

00:35:55

part of the world. They

00:35:57

tend to say no because

00:35:59

they say that these are

00:36:00

local institution and therefore they

00:36:04

didn't tend to choose ICC

00:36:07

Paris and London, for example

00:36:10

that is not ideal for

00:36:12

Chinese parties and therefore in

00:36:14

which case I float to

00:36:15

you. Another alternative said you

00:36:18

may wish to consider and

00:36:21

that is to use the

00:36:22

ALCO the Asian African legal

00:36:24

consultative organization arbitration bodies. Now

00:36:29

I should not be saying

00:36:30

that to me in a

00:36:31

BAC event. BAC is your

00:36:33

first choice without doubt, but

00:36:35

when when when that comes

00:36:37

to a Malaysian where they

00:36:39

say I don't want to

00:36:40

go to a local local

00:36:42

as in the sense of

00:36:43

local to a particular geographic

00:36:45

location try that because the

00:36:47

Elco has 48 members. The

00:36:50

number of them are African

00:36:51

States and they would therefore

00:36:53

be familiar with this body

00:36:55

against the government would be

00:36:56

and maybe more amenable now

00:36:59

I say Elko there a

00:37:01

sixth sense in in the

00:37:04

Alcoa Patrol buddies Cairo Lagos,

00:37:12

Nairobi, Malaysia and Hong Kong

00:37:20

so you can choose these

00:37:23

six bodies. They have standard

00:37:25

rules and you can choose

00:37:26

the one that will be

00:37:27

most suitable and more acceptable.

00:37:29

So that's an alternative is

00:37:31

that because that's an inter-governmental

00:37:32

organization. So you are free

00:37:35

and you can move away

00:37:36

from the argument that it

00:37:38

is. A local body because

00:37:39

the horror story I heard

00:37:41

is that without agreeing to

00:37:44

any of the institutions local

00:37:47

institutions for the parties then

00:37:49

end up agreeing is ad

00:37:51

hoc arbitration in a particular

00:37:54

location in Africa that they

00:37:56

have not even heard of

00:37:58

and and it is very

00:38:00

scary. If you think of

00:38:01

your arbitration ending up there

00:38:03

and you don't even know

00:38:04

how to handle it. So

00:38:06

am I float that has

00:38:07

an idea for you when

00:38:09

you are negotiating your arbitration

00:38:11

clause. Now then let's move

00:38:13

on to the types of

00:38:15

Clauses that are typical in

00:38:17

Bri projects. I think it's

00:38:19

you can glean from the

00:38:21

discussions from Murphy and elves

00:38:23

and they tend to be

00:38:24

escalation Clauses or multi-tiered dispute

00:38:29  
resolution closes in which you

00:38:32  
start with usually the the

00:38:34  
the site trying to agree.

00:38:36  
If not you go to

00:38:37  
the Senior Management. If not,

00:38:39  
you go to mediation. If

00:38:41  
not, you go to adjudicate

00:38:41  
urine and if not, you

00:38:43  
go to arbitration at the

00:38:44  
end of the projects. I

00:38:47  
would advise for other contracts.

00:38:49  
I should say I would

00:38:50  
advise and tightly against it

00:38:52

but for construction my own

00:38:55

experience is that sometimes these

00:38:57

work if you are if

00:39:00

you dropped it promptly and

00:39:03

if you manage them properly,

00:39:04

it works because in the

00:39:06

long construction project you need

00:39:09

decisions to move on you

00:39:11

cannot forever. The letters disagreeing

00:39:14

things of forever be reserving

00:39:16

your rights on the particular

00:39:17

to speak to at least

00:39:19

using these steps. You have

00:39:22

something resolved very quickly on

00:39:26

an interim basis and if

00:39:28

it is in an on

00:39:30

an interim basis and then

00:39:31

has the benefit of being

00:39:33

reviewed later but you move

00:39:35

on with the project because

00:39:37

there's nothing more scary looking

00:39:39

at the prospects of Bri

00:39:41

in international arbitration. You want

00:39:43

the prospects of completing the

00:39:45

project. So escalation closes possible

00:39:48

not bad idea in construction

00:39:50

dispute provided distracted properly. So

00:39:54

you need good advice good

00:39:56

lawyers to drop those closest

00:39:58

in order for them to

00:39:59

be used. But having said

00:40:03

that I understand that because

00:40:05

with a view to try

00:40:07

and resolve the dispute there

00:40:09

and then there is growing

00:40:11

growing use of experts determination

00:40:15

as I heard yesterday, and

00:40:17

I've had previously people are

00:40:19

encouraging encouragingly using that as

00:40:23

a processed. Now, if you

00:40:25

do those who are in

00:40:26

the construction industry would know

00:40:28

that you would have the

00:40:29

engineer's decision. The compressor doesn't

00:40:31

like it and then you'll

00:40:32

have to swallow it and

00:40:34

move on. So therefore the

00:40:35

expert determination in the in

00:40:37

the way very quickly reviews

00:40:39

the engineer position and provide

00:40:41

the basis for parties to

00:40:43

move on so that is

00:40:44

a game and not a

00:40:46

bad idea again identifying narrowing

00:40:50  
to dispute it is that

00:40:51  
that's all these processes involve

00:40:54  
a very clear identification and

00:40:57  
Fellini. Malaysian of the issues

00:41:01  
that you refer to each

00:41:02  
of these processes. All right.

00:41:03  
So the expert determination is

00:41:05  
something that that one should

00:41:07  
bear in mind nowadays. I

00:41:09  
think it well. Nowadays. I

00:41:11  
think in fact just yesterday.

00:41:12  
I was also questioned about

00:41:14  
the stages of such an

00:41:15

expert determination. I think it

00:41:17

very brief times. It just

00:41:19

contractually binding and it's interesting

00:41:22

faces its interim until you

00:41:24

seek to review it at

00:41:26

the end of the day

00:41:27

and of course, it depends

00:41:28

how your contract and how

00:41:30

your expert determination closest Ralph's

00:41:32

to her that the idea.

00:41:34

Of course, you can make

00:41:35

it by knowing that it's

00:41:36

not reviewable in which case

00:41:38

parties don't like it. They

00:41:39

always like to have a

00:41:40

chance to fight it all

00:41:41

out in an arbitration. So

00:41:43

that's that seems to be

00:41:45

very much friend the other

00:41:48

things that will assist in

00:41:50

reducing or narrow of the

00:41:53

dispute in an international arbitration

00:41:55

is the use of dispute

00:41:57

Sports. In construction projects be

00:42:00

there whether you call it

00:42:01

d a p or D.

00:42:02

I'll be at least dispute

00:42:04

Sports tend to have attraction

00:42:07

of actually pre-empting. The dispute

00:42:10

is used to describe them

00:42:12

as like can people who

00:42:14

are smelling whether something is

00:42:16

likely to go wrong and

00:42:18

then nibbled at the bat.

00:42:19

And so therefore you may

00:42:21

have a chance of actually

00:42:22

presenting the difference be coming

00:42:25

into a dispute. So you're

00:42:29

actually it is part of

00:42:30

a dispute avoidance measure and

00:42:33

construction contracts have that. I

00:42:35

think she did have those

00:42:36

terminology, but they're just not

00:42:37

used to know because contracted

00:42:40

sent you things are costly

00:42:42

but they're not three persons.

00:42:46

Once a month or once

00:42:48

every 3 months fly them

00:42:50

to the project and today's

00:42:52

meeting compared to a long

00:42:54

drawn-out arbitration. It is entirely

00:42:56

worth it. It's really good

00:42:58

value if you again manage

00:43:01

it well and use it.

00:43:02

Well, so consider using the

00:43:05

rbj be in your project

00:43:07

do not think of the

00:43:09

immediate cause because of disputes

00:43:11

will definitely arise during a

00:43:15

construction projects and it's a

00:43:16

matter of avoiding them and

00:43:19

managing them to mention. I

00:43:22

don't talk about adjudication because

00:43:25

some it in the interest

00:43:27

of time to let's talk

00:43:27

about mediation. Mediation has its

00:43:31

benefits. And in fact, we

00:43:33

are looking at Bri mediation

00:43:35

should be promoted more than

00:43:38

arbitration because with the idea

00:43:40

of Bri Goshen County Mutual

00:43:47

share Mutual built Thank you

00:43:51

building and sharing and enjoying

00:43:53

that really means that you

00:43:55

have to have a course

00:43:57

at the collaborative effort and

00:44:00

using mediation to settle the

00:44:02

particular dispute and when

00:44:04

it arises nipping at the

00:44:07

bar and you move on

00:44:08

with the project keeping good

00:44:10

relationship, it can be done

00:44:12

on an issue by issue

00:44:14

basis. You don't have to

00:44:15

wait wait till the end.

00:44:16

So you're escalation drafting of

00:44:19

escalation Clauses will allow you

00:44:21

to use these mechanisms to

00:44:23

achieve what I would prefer

00:44:24

to call dispute avoidance not

00:44:27

so much a dispute resolution

00:44:29

now, then I know that

00:44:31

we'll be talkin about investment

00:44:34

and let me then share

00:44:36

another story again without divulging

00:44:38

any parties or I need

00:44:40

to restrictions. Two companies have

00:44:43

just two Chinese companies wanting

00:44:45

to invest in a particular

00:44:48

continent. I'll have to give

00:44:51

it as as as a

00:44:51

treat in the particular continent

00:44:54

and both of them for

00:44:58

us to go to Hong

00:44:59

Kong to start the you

00:45:01

know, do the IPOs and

00:45:03

Corporation structure. One of them

00:45:05

then went to the Netherlands

00:45:07

to then set up the

00:45:09

SPV in order to invest

00:45:11

in that particular country. The

00:45:13

other one goes directly from

00:45:15

Hong Kong to that particular

00:45:16

come to the same measure

00:45:19

of the same acts with

00:45:20

taken by the government in

00:45:22

that country that causes allegedly

00:45:26

according to the company's a

00:45:27

damages to them and they

00:45:29

they definitely are now dealing

00:45:31  
with it in the in

00:45:33  
the in the country within

00:45:34  
that country know if this

00:45:36  
matter Phil's Inn Resort in

00:45:40  
being resolved in that country,

00:45:42  
then it might have to

00:45:44  
end up in investor-state dispute.

00:45:48  
Hong Kong for example doesn't

00:45:50  
have a Hong Kong can

00:45:52  
enter into bilateral investment arrangement

00:45:55  
with other jurisdictions, but we

00:45:58  
don't call it treaty because

00:46:00  
we know the country as

00:46:01

you know, which one country

00:46:02

two systems but we're allowed

00:46:04

to enter into that and

00:46:05

Hong Kong has about 22

00:46:07

of such an investment protection

00:46:10

arrangements with other countries Uncle

00:46:14

doesn't have with that particular

00:46:15

country Netherlands have with that

00:46:18

particular country and there for

00:46:21

the protection that would be

00:46:22

a afforded to the one

00:46:25

that uses Netherlands to establish

00:46:27

an SPV to go to

00:46:29

invest become more useful. Hopefully,

00:46:32

we don't no one wants

00:46:34

to go to is dies

00:46:35

unless absolutely necessary checking on

00:46:38

the status of Braveheart and

00:46:40

you don't do it likely

00:46:41

so but you need that

00:46:43

protection and that goes to

00:46:45

the planning of any PRI

00:46:47

project, right? The beginning so

00:46:49

I think of my focus

00:46:51

as you can see is

00:46:52

more on dispute avoidance, and

00:46:54

I think if dispute avoidance

00:46:56

is done. Well, then these

00:46:58

faces and Prospects of Bri

00:47:00

weather in or not in

00:47:02

international arbitration will be very

00:47:04

good. Thank you. Get the

00:47:10

results. Thank you for your

00:47:11

very valuable and important speech.

00:47:14

She have talked about this

00:47:17

huge information and knowledge in

00:47:20

the morning. I've been fishing

00:47:22

areas are the most interested

00:47:24

in since its reports. The

00:47:28

first one is she for

00:47:30

Chris and emphasized the clothes

00:47:33

importance to the b&i initiatives,

00:47:38

especially on the infrastructure and

00:47:41

the other very cute cute

00:47:44

texts and calls very important.

00:47:53

I mean the application without

00:47:56

mostly depend on your own

00:47:59

the contract to close. I

00:48:01

think it is very important

00:48:03

and the 2nd for she

00:48:06

focus on the seats of

00:48:09

application or the choice of

00:48:12

the efficient body important, especially

00:48:19

for the Chinese Enterprises is

00:48:21

the John's in the very

00:48:27

huge infrastructure building and a

00:48:30

very long time to project

00:48:32

to Union be on the

00:48:33

I-80. So I've been treason

00:48:40

baldi's toys is very sensitive

00:48:45

or Chinese Enterprises. I suggest

00:48:48

the Beijing International arbitration Center

00:48:52

is the best one for

00:48:54

your choice. And that the

00:48:57

most interesting the pawn ticket

00:49:01

says the focus on that

00:49:03

medication. I think it's the

00:49:05

Chinese preferred stale Peeps and

00:49:11

made a decision. We have

00:49:13

a very good very old

00:49:15

tradition or the imitation a

00:49:20

site that Malaysians importance to

00:49:22

handle that the legal disputes

00:49:26

in the b&i the new

00:49:33

items and the new topics

00:49:36

v e r b x

00:49:39

pure determination DAV and the

00:49:43

b i t s use

00:49:45

in the you watch them

00:49:46

in the dispute settlement. very

00:49:50

huge Lodge information and knowledge

00:49:55

Teresa You can transfer to

00:50:04

the the last two speakers

00:50:06

in the door panels. patreon

00:50:11

Channel TV is international arbitrator

00:50:14

and the legal specialist II

00:50:16

you are a f Goes

00:50:21

to you. Mr. Let me

00:50:24

just going to begin by

00:50:26

expressing expressing my appreciation to

00:50:29

wow with Antonio Rivas Ian

00:50:32

and of course biac for

00:50:35

the invitation, but only to

00:50:38

share some remarks with you,

00:50:39

but to share this panel

00:50:41

with my colleagues meet such

00:50:46

interesting presentation cell and honor

00:50:49

to be here along with

00:50:51

you. So I want to

00:50:55

focus on investor-state dispute resolution

00:50:59

in the context of Bri

00:51:01

China is the fourth largest

00:51:05

source of foreign direct investment.

00:51:09

This means outward the flows

00:51:13

of Chinese investment to the

00:51:15

rest of the world in

00:51:17

the second largest recipient of

00:51:19

foreign direct investment. And China's

00:51:24

role as one of the

00:51:27

main sources of FDI in

00:51:30

the world has increased and

00:51:32

it's it is bound to

00:51:34

continue to increase thanks to

00:51:36

its belt and Road initiative.

00:51:41

Bri projects have Murphy the

00:51:44

initially said the R-value multi-party

00:51:49

they always involve the states

00:51:53

does the interests of states.

00:51:57

the involved very complex projects

00:52:02

and transactions Ask infrastructure projects

00:52:07

are always are but as

00:52:09

Teresa was saying there are

00:52:13

other types of projects that

00:52:16

go along with the main

00:52:18

infrastructure projects such as building

00:52:21

schools and hospitals power plants

00:52:23

that support the main infrastructure

00:52:27

projects self. They are highly

00:52:30

complex Murphy refer to the

00:52:33

multiple parties involved contractors subcontractors

00:52:36

suppliers of goods and services

00:52:39

lenders. I see Nancy Hurst

00:52:42

insurers the also involve multi

00:52:46

multiple stakeholders beyond the parties

00:52:52

that are involved in these

00:52:53

projects in transactions. I referred

00:52:56

to already two to the

00:52:58

states. So certainly the Chinese

00:53:02

government not only because It's

00:53:05

initiative that work. I just

00:53:07

got in here but also

00:53:09

because I stayed owned Enterprises

00:53:12

play an important role in

00:53:14

developing these projects both as

00:53:17

contractors as developers, but also

00:53:20

providing Financial finance financing the

00:53:25

project themselves. So it has

00:53:28  
that other interests as well

00:53:31  
as opposed to many other

00:53:33  
government. And there are also

00:53:38  
other stakeholders that we in

00:53:41  
in discussing investor-state dispute resolution.

00:53:44  
We often tend to overlook

00:53:46  
for the local communities where

00:53:50  
the projects are going to

00:53:51  
be built the local communities

00:53:54  
where Railways or roads are

00:53:57  
going to pass the people

00:54:04  
that have environmental concerns. So

00:54:07  
not only the the the

00:54:08

local communities but also a

00:54:11

non-governmental organizations that that are

00:54:15

interested in preserving the environment

00:54:18

self again, there. There are

00:54:20

all their these other stakeholders

00:54:24

that are involved in this

00:54:26

huge project. And Murphy also

00:54:31

touched upon know the the

00:54:34

cultural political and diverse cities

00:54:40

in in terms of where

00:54:42

these projects are taking place.

00:54:45

Just the sheer number of

00:54:49

countries around the world that

00:54:51

are now either signed up

00:54:54

or signing onto the belt

00:54:57

and Road initiative. So complex

00:55:06

environment at Large. end given

00:55:16

the sheer breadth of the

00:55:19

project is Murphy again. And

00:55:21

now then I think you

00:55:22

touched upon as well it

00:55:25

is it disputes are bound

00:55:28

to arise the are arising

00:55:30

and we need to think

00:55:33

about how to best resolve.

00:55:36

Hopefully S3's. I was saying

00:55:38

how to best avoid disputes

00:55:40  
all together, but never the

00:55:41  
last disputes will arise In

00:55:46  
the end I will have

00:55:49  
to figure out how best

00:55:51  
to resolve them. This context

00:55:54  
China has an extensive network

00:55:56  
of International Investment agreements. I'm

00:56:03  
not mistaken. It has around

00:56:04  
\$145 investment agreement that the

00:56:10  
majority of which provide for

00:56:13  
investor-state arbitration as the means

00:56:15  
of dispute resolution the areas

00:56:20  
are there in the first

00:56:22

generation of agreements that do

00:56:24

not provide for is d

00:56:26

s r investor-state dispute settlement

00:56:27

at all. But the second

00:56:30

wave of investment agreements that

00:56:34

provides for traditional or what

00:56:37

I would say traditional is

00:56:38

dies in the more recent

00:56:40

wave of more recent generation

00:56:44

3rd. Gen. Investment agreement where

00:56:47

China has taken somebody more

00:56:51

cautious look at investor-state dispute

00:56:55

resolution and has begun to

00:56:58

include some of the the

00:57:02

the advances that are being

00:57:08

discussed in it. National Forum,

00:57:13

but what's important to note

00:57:16

is that against the somewhat

00:57:18

still recent backlash against investor-state

00:57:21

dispute resolution China has continued

00:57:24

to support inclusion of ideas

00:57:26

Diaz in in its treaties

00:57:28

China at the Anza 12

00:57:32

working with 3, which is

00:57:34

the the the group AD

00:57:37

on Super Bowl that is

00:57:38

looking at is DS reform

00:57:42  
at-large. China has expressed support

00:57:45  
for is DS. In China

00:57:50  
more recently for instance has

00:57:54  
requested. She would see to

00:57:58  
the comprehensive and Progressive. The

00:58:04  
cptpp the comprehensive and Progressive

00:58:07  
trance Pacific partnership, which contains

00:58:11  
includes is dies. And that

00:58:16  
again is in line with

00:58:19  
China's positive view of investor-state

00:58:22  
dispute resolution. Now China has

00:58:26  
been a Critic of the

00:58:28  
traditional is what while its

00:58:30

support is Diaz. It has

00:58:32

also been a Critic it

00:58:34

has also joined other countries

00:58:36

and its criticism of the

00:58:37

traditional is the China for

00:58:43

instance has joined other countries

00:58:48

are perhaps importantly in the

00:58:52

lack of corrective mechanisms in

00:58:55

is dies in the lack

00:58:57

of stability and predictability of

00:58:59

the system. So it has

00:59:03

I wouldn't say put forward

00:59:05

but it has its support

00:59:08

an idea that is by

00:59:10

no means new but the

00:59:12

idea of establishing an appellate

00:59:15

mechanism similar to that of

00:59:17

the WTO building and appellate

00:59:21

mechanism into the resolutions system.

00:59:31

It is still you know

00:59:33

difficult idea to to implement.

00:59:37

But what it means is

00:59:38

that China is Justin don't

00:59:41

only have a positive view

00:59:42

in terms of is. But

00:59:44

is also it is proposing

00:59:50

ideas as to how it

00:59:52

can evolve in the somewhat

00:59:55

near future in terms of

01:00:00

what the prospects might be

01:00:04

is China, of course as

01:00:07

I've discussed in my colleagues

01:00:09

before me have discussed plays

01:00:12

an important role in the

01:00:13

context of a SDS. And

01:00:17

especially now that is DSE

01:00:20

is changing. It is evolving.

01:00:22

It is subject to an

01:00:24

all-important multilateral reform. It can

01:00:31

continue to play an important

01:00:32

role in that China has

01:00:36

a significant interesting in my

01:00:38

view in is d i

01:00:40

s d s not only

01:00:44

because it is the source

01:00:45

of investment flows generally, but

01:00:49

because the Ries all about

01:00:52

outward investment flows again, because

01:00:58

of the importance of participation

01:01:01

of Chinese state-owned Enterprises in

01:01:03

the developing and financing of

01:01:05

these projects China should have

01:01:08

an important should continue to

01:01:12

play an important role in

01:01:15

the how is DS evolved

01:01:18

but also because again in

01:01:21

the backlash against investor-state dispute

01:01:24

resolution if we take a

01:01:28

look at the map and

01:01:30

where the The economic belt

01:01:35

and the maritime Silk Road

01:01:37

will go through and as

01:01:39

it has been expanding along

01:01:42

the many countries chiam Chinese

01:01:46

investment is flowing into countries

01:01:50

in Africa and Latin America

01:01:51

that have been at the

01:01:54

Forefront of this backlash against

01:01:57

isps. So it should be

01:02:05

not only of interest to

01:02:08

China but if interests to

01:02:10

the rest of the world

01:02:11

know, what is China's position

01:02:14

how it will evolve as

01:02:17

a BRI continues as Bri

01:02:22

progresses and the last subject

01:02:27

that I would like to

01:02:28

touch upon is Teresa made

01:02:32

emphasis on mediation. And she

01:02:35

made a Sazon mediation in

01:02:39  
the context of dispute avoidance

01:02:41  
and mr. Lu was as

01:02:43  
well. He said, you know,

01:02:44  
this is China's preferred method

01:02:46  
of dispute resolution, but I

01:02:49  
would like to give it

01:02:50  
a little bit of a

01:02:51  
spin because ultimately we talked

01:02:55  
about arbitration throughout the morning

01:02:59  
and two of my colleagues

01:03:02  
before me talk to extensively

01:03:04  
about arbitration. But you know,

01:03:07  
I've always been a proponent

01:03:09

of invest their state dispute

01:03:12

resolution and specifically of investment

01:03:15

arbitration But ultimately I think

01:03:18

it is a losing proposition.

01:03:21

in my view a successful

01:03:25

investment is worth so much

01:03:30

more than the most successful

01:03:32

arbitration Ward. So by the

01:03:36

time that the parties are

01:03:37

involved in arbitration, if the

01:03:40

investor wins, even if an

01:03:43

important award, I think it

01:03:45

has lost a good business

01:03:47

proposition a good business deal.

01:03:51

And in contrast to the

01:03:52

state if it's State wins

01:03:54

the award. Well what that

01:03:58

means is that it doesn't

01:03:59

have to pay damages but

01:04:01

more importantly what it means

01:04:03

is that most probably it

01:04:05

has lost the investment. So

01:04:08

ultimately when we are in

01:04:10

an arbitration it however, it

01:04:15

turns out it is a

01:04:16

losing proposition and in this

01:04:19

contacts mediation can be an

01:04:22

alternative not only for disputable

01:04:25

avoidance, hopefully, but in order

01:04:28

to It'll Foster successful Investments

01:04:34

where problems have arised and

01:04:36

again is my colleagues have

01:04:38

said and I are you

01:04:39

refer to it in my

01:04:40

initial remarks disputes are bound

01:04:45

to arise that. There is

01:04:46

there's no question that the

01:04:48

number of transactions the number

01:04:50

of project the complexity. The

01:04:52

number of parties involved in

01:04:54

disputes will arise but even

01:04:56

where they have arisen if

01:04:58

mediation as China's preferred method

01:05:01

of dispute resolution, if they

01:05:03

if it can be turned

01:05:05

into a means of making

01:05:07

Investments successful or making them

01:05:11

successful again, I think that

01:05:17

will be that will go

01:05:19

a long way in my

01:05:21

experience now of close to

01:05:24

twenty-five years in fds. I

01:05:28

have not seen the mediation

01:05:33

Almost anywhere. There are a

01:05:36

few conciliation cases in the

01:05:39

context of exceed a few

01:05:41

others out there, but it

01:05:42

has not been used as

01:05:44

a tool and for many

01:05:46

years. I was Mexico's lead

01:05:48

counsel in these types of

01:05:51

arbitration and many of them

01:05:53

could have been resolved to

01:05:56

the benefit of both parties

01:05:58

to the benefit of Mexico

01:05:59

is the state and to

01:06:01

the benefit of the investor.

01:06:02

If a solution could have

01:06:05

been found that would turn

01:06:06

what was a dispute into

01:06:08

a successful investment and I

01:06:10

think China just because of

01:06:12

its tradition of its culture

01:06:15

and as an SMS with

01:06:16

you said it's preferred means

01:06:19

of dispute resolution through mediation.

01:06:21

It could play a very

01:06:24

important role in the context

01:06:27

of Bri as we see,

01:06:29

you know, the prospects of

01:06:31

isds General ask Bri Progressive

01:06:39

so tired my remarks. Thank

01:06:41

you. Thank you, and thank

01:06:48

you for your very important

01:06:50

and interesting speech speech a

01:06:55

talk about a lot of

01:06:58

complicated elements in piano. Initiating

01:07:04

likes you are mental concern

01:07:07

labor rights and cultural difference

01:07:10

and some other loyalty Prince

01:07:15

other seems the most important

01:07:19

for me is you talk

01:07:21

about it exceeds system you

01:07:27

sat timer is to support

01:07:31  
her fault. And is DS

01:07:36  
systems reform. We have a

01:07:39  
deliver our agenda and I'll

01:07:43  
ride wise United Nations treat

01:07:48  
and the law committee. We

01:07:51  
support we also supports Buttes

01:07:54  
a corrective system. Like you

01:07:59  
have started like the play

01:08:05  
WAV has been paralyzed or

01:08:09  
American. I always supports we

01:08:18  
can build a new correct

01:08:21  
to correct the systems in

01:08:24  
SPS the you talk about

01:08:27

is it cptpp, you know,

01:08:30

China have to deliver our

01:08:35

application going to the cptpp.

01:08:38

We should eat the virus

01:08:42

very important. Trade and you

01:08:48

must commend agreement in recent

01:08:51

years have a new high

01:08:53

live old sweet and the

01:08:57

you want some loose end

01:08:58

the dispute settlement lose in

01:09:00

cptpp. We have a lot

01:09:04

for a long time and

01:09:06

we wish we have a

01:09:09

good end to John in

01:09:11  
the CPT BP and the

01:09:13  
last two parts of your

01:09:15  
speech you referred the importance

01:09:18  
of the Malaysian you had

01:09:21  
to import important to the

01:09:24  
mediation in especially in disputes

01:09:29  
you I'll give it to

01:09:35  
you in this point. And

01:09:38  
how's that the time leave

01:09:40  
a lot of and we

01:09:45  
have to close our a

01:09:48  
speaker speech and the next

01:09:50  
one is the Q on

01:09:51  
the 8th time. If you

01:09:54  
have a question, you can

01:09:56  
raise your hands. No friend.

01:10:03  
No, no, no problem coming

01:10:14  
from but Hugo said let

01:10:16  
me again share another story

01:10:18  
investment arbitration that went on

01:10:23  
for about 9 to 10

01:10:25  
years except does host stage

01:10:29  
1 And then about a

01:10:32  
few months after that the

01:10:35  
investor started to negotiate with

01:10:38  
the whole state to get

01:10:39

to continue with the project

01:10:41

in probably another terms now

01:10:45

that to me is a

01:10:46

classic case that hat they

01:10:49

used mediation right at the

01:10:51

stuff. They would have renegotiated

01:10:53

a deal that will suit

01:10:56

you may not like it

01:10:58

the whole state should not

01:10:59

throw things are the investors

01:11:01

should not one more before

01:11:02

they could have resolved that

01:11:04

instead of having ten years

01:11:06

and arbitration and now going

01:11:07

back and read negotiate another

01:11:09

deal. So, I mean that

01:11:10

I think you know, when

01:11:12

you when you mentioned it's

01:11:13

not used immediately reminded me

01:11:16

of that particular story. My

01:11:28

name is Antonio and I

01:11:33

have two questions for you.

01:11:35

The first question is in

01:11:37

the context of a UNCITRAL

01:11:39

the anthropocene proceedings and negotiations

01:11:42

to the extent that you

01:11:45

have previous information in terms

01:11:48  
of the Chinese position concerning

01:11:51  
the pallets facility. It would

01:11:55  
be very interesting to to

01:11:56  
learn its logic versus for

01:12:02  
instance the logic of of

01:12:03  
other countries that may be

01:12:05  
in favor of the multilateral

01:12:08  
investment court or versus the

01:12:12  
logic of some states that

01:12:14  
at me Abby against both

01:12:18  
of the facility and as

01:12:20  
well as the multilateral investment

01:12:22  
court, so that's that's one

01:12:24

question because there's there's a

01:12:25

lot of Interesting State perspectives

01:12:29

in terms of investment arbitration

01:12:31

and public international law with

01:12:33

respect to those three positions.

01:12:34

No, no, no reform on

01:12:38

that matter the acidity and

01:12:42

the multilateral investment. So that's

01:12:44

question. Number one question. Number

01:12:46

two is on mediation and

01:12:48

rest and that culturally on

01:12:50

us as we we we

01:12:51

saw this morning with culturally

01:12:58

China has a almost a

01:13:02

tradition of mediation that goes

01:13:05

goes very very long for

01:13:09

a long time. And I

01:13:11

understand that that's mediation forms

01:13:14

are almost the intrinsic part

01:13:17

of of Chinese legal tradition.

01:13:20

I could understand how for

01:13:24

instance when a foreign investor

01:13:28

would be suing the Chinese

01:13:30

states that mediation would be

01:13:32

an option because it's part

01:13:34

of the Chinese tradition, but

01:13:36

the question is how to

01:13:39

Modify the ways and means

01:13:47

that older legal Ultras have

01:13:50

as host states were the

01:13:53

maybe somehow more afraid of

01:13:56

mediation and investors to arbitration.

01:13:59

And what what happens in

01:14:00

other countries is that they

01:14:03

may be willingness by some

01:14:07

logic to be willing to

01:14:10

do a amicable Arrangement But

01:14:16

ultimately the public officials are

01:14:19

very much afraid of agreeing

01:14:22

to a mediation or an

01:14:25

amicable agreement of the Coach

01:14:27

O. If the legal culture

01:14:31

is not there. I have

01:14:32

a few examples of of

01:14:34

states that have been mature

01:14:35

enough to get to an

01:14:37

amicable agreement one case in

01:14:40

which I have another former

01:14:42

Law Firm that I was

01:14:43

in I was able to

01:14:44

represent the investors against Canada

01:14:49

and in that case Canada

01:14:51

agreed to to settle because

01:14:53

the measure was actually called

01:14:56

the expropriation decree. So it

01:14:58

was quite obvious that it

01:14:59

was his probation. And and

01:15:01

that was it but most

01:15:04

of the countries are very

01:15:05

reluctant to do mediation or

01:15:07

or or get to a

01:15:10

settlement. So what would be

01:15:12

from a Chinese perspective? What

01:15:15

would be your your advice

01:15:18

in terms of how to

01:15:20

somehow influence the legal culture

01:15:24

of other other states that

01:15:25

may be reluctant to get

01:15:27

to an amicable settlement? Because

01:15:29

of the fears of of

01:15:30

of being personally responsible for

01:15:35

for those kind of amicable

01:15:37

settlement. Thank you. I'll answer.

01:15:42

I'll try and answer the

01:15:44

second the first of course,

01:15:46

I am not able to

01:15:47

comment try and answer the

01:15:50

second in this way. If

01:15:51

we're looking at Bri projects

01:15:53

African States Asian States main

01:15:56  
be at least for now.

01:15:57  
Of course, we we could

01:15:58  
defer these states actually have

01:16:01  
a very similar culture of

01:16:04  
conciliate trying to sexual rather

01:16:08  
than to put them could

01:16:10  
fight it out in the

01:16:11  
cold. So let's let you

01:16:12  
just type of nature. I

01:16:14  
was quite surprised until I

01:16:15  
speak to some of the

01:16:16  
African friend because we do

01:16:18  
training for for for government

01:16:21

officials in nation African countries.

01:16:23

Do we have that is

01:16:24

some in my capacity as

01:16:26

station Academy of international laws.

01:16:28

So when I realized that

01:16:30

they were very conciliatory that

01:16:33

it should have reinforces my

01:16:34

belief that it can be

01:16:36

something that can be looked

01:16:37

at. So I think the

01:16:39

culture is not the concern.

01:16:41

Mentioned about government officials would

01:16:44

be afraid to settle because

01:16:46

of personal accountability Etc that

01:16:49

I think is not illegal

01:16:50

culture that I think is

01:16:51

universal. I think everybody has

01:16:54

that concern do every country

01:16:56

in the world be that

01:16:57

is what one would call

01:16:58

the very litigious States all

01:17:00

the sort of more conciliatory

01:17:02

steak. So that concern I

01:17:05

think can only be overcome

01:17:06

through training. Training in the

01:17:09

sense of letting people appreciate

01:17:11

how it works knowing the

01:17:13  
benefits and actually devising a

01:17:16  
system within a government to

01:17:19  
ensure that a decision made

01:17:21  
in the mediation buy a

01:17:22  
current government would not be

01:17:24  
used by a laser government

01:17:26  
to go an attack on

01:17:27  
the officials to deal with

01:17:29  
it so something so I

01:17:31  
think this is my thinking

01:17:33  
that is divorced from the

01:17:35  
overall political changes in government

01:17:38  
election and all the rest

01:17:41

of it to ensure the

01:17:42

Integrity of that process has

01:17:44

preserved the ancient Academy of

01:17:47

international law have been providing

01:17:48

training on investment mediation since

01:17:51

2018. The first few were

01:17:54

actually with them exit and

01:17:56

it's very useful. I think

01:17:58

people learned a lot from

01:18:00

that and we intend to

01:18:01

continue to do that and

01:18:03

very supportive of the inceptra

01:18:04

working group 3 the mediation

01:18:07

guide Actresses that came out

01:18:10  
last July I think yes,

01:18:13  
so I think that's that's

01:18:15  
I think that's the that

01:18:17  
it's not easy. I think

01:18:18  
the target should be explaining

01:18:21  
how governments should be able

01:18:23  
to accept it investors generally

01:18:25  
a more amenable to mediation,

01:18:29  
but I understand if we

01:18:30  
fully understand the government may

01:18:33  
be less willing and that

01:18:34  
I think is a lot

01:18:35  
of people doing a lot

01:18:37  
of work trying to do

01:18:40  
capacity building as well as

01:18:41  
if icing systems. Yeah, I

01:18:45  
want to see Boron. You're

01:18:47  
the second question. You know

01:18:50  
mediation is the lower-cost lower

01:18:53  
cost and the lower practice

01:18:55  
is especially on the Eco

01:18:58  
professional station convention. Now if

01:19:10  
they can push agreement document

01:19:15  
be enforced in some countries,

01:19:21  
especially on a size including

01:19:29  
all mostly developing country OST.

01:19:35

I'll be teaching practices my

01:19:39

colleagues in very many. International

01:19:48

arbitration area it says small

01:19:51

circle. very small circle almost

01:19:56

from the Bastion count So

01:19:59

I agree with what the

01:20:02

Teresa said in expansion in

01:20:05

Asia Africa, especially 20 country.

01:20:12

We prefer to choose the

01:20:15

Malaysian to handle these disputes

01:20:18

and it is Singapore convention

01:20:26

can push these efforts? What's

01:20:31

the question for you briefly

01:20:35

touch upon? The second question

01:20:37  
is well and just the

01:20:38  
treason has given us so

01:20:40  
many stories in the let

01:20:43  
me get just share one

01:20:45  
with you is and I

01:20:47  
think it goes to your

01:20:48  
question as to what does

01:20:50  
settlement mean. And do you

01:20:54  
know where the investor? Once

01:20:57  
money a settlement in terms

01:21:00  
of monetary compensation. I don't

01:21:04  
think that mediation is going

01:21:07  
to help a lot and

01:21:08

I am at least in

01:21:09

my experience investors tend to

01:21:11

look at it as it

01:21:16

only adds to the time

01:21:17

and cost if mediation goes

01:21:20

nowhere, then you're stuck with

01:21:23

arbitration and it only asked

01:21:25

time and cost but I

01:21:27

was involved in one case

01:21:29

where actually the government proposed

01:21:32

settlement option that could have

01:21:36

been well mediated. Are there

01:21:40

involved in rescuing the the

01:21:43

investment? So we were in

01:21:45

the middle in the middle

01:21:46

of arbitration. They was the

01:21:50

company that was involved was

01:21:52

bought by a larger company

01:21:54

in you know that Lee

01:21:56

said Let's discuss a settlement

01:21:59

long story short. They said,

01:22:01

you know, we're still waiting

01:22:03

Mexico for 60 million dollars,

01:22:05

but will settle for 20

01:22:06

million. And what we said

01:22:09

what I told my boss

01:22:11

a minister at that time

01:22:12

I said like it's very

01:22:13

difficult for the government just

01:22:14

to hand out a check

01:22:15

and say okay. We're saving

01:22:17

40 million dollars it just

01:22:18

handing a check 20 million

01:22:20

settlement and it brings all

01:22:23

the problems that it was

01:22:24

referring to the ability to

01:22:27

sell one government instead of

01:22:33

handing the investor a check

01:22:35

that they will go and

01:22:37

then invest elsewhere. Why don't

01:22:41

we get out Supply 20

01:22:44

million dollars worth of this

01:22:47

was a waste concession. So

01:22:49

waste dump trucks or a

01:22:53

landfill. So it's easier for

01:22:55

the the state government or

01:22:58

the provincial government to say

01:23:00

they will this will go

01:23:02

not to the investor but

01:23:03

to the concession and this

01:23:05

will be the landfill and

01:23:07

it's worth however much of

01:23:09

an fill of that size

01:23:10

is worth and so many

01:23:12

dump trucks were or waste

01:23:13

collection trucks. So, you know,

01:23:16

you are. I don't know

01:23:17

where they're 20 or 15

01:23:19

or however much but instead

01:23:20

of handing over to check

01:23:21

the government invests in creates

01:23:24

an interest in to the

01:23:26

investment project. And the investor

01:23:29

you it you can also

01:23:29

say you can't will chip

01:23:32

in 20 million, but you

01:23:33

have to chip in any

01:23:34  
more million and you know

01:23:36  
what you will make this

01:23:38  
into a larger concession. So

01:23:41  
I thought that was an

01:23:42  
interesting idea. We talked to

01:23:43  
the municipal government. They said

01:23:45  
we could work something out.

01:23:47  
We talked to you the

01:23:49  
state government to be in

01:23:52  
Mexico provinces and they said

01:23:55  
I think we could make

01:23:56  
it work and we could

01:23:57  
find fun send the federal

01:23:59

government was involved ultimately the

01:24:02

investor because they had their

01:24:06

mind was set in arbitration.

01:24:08

They had thrown in the

01:24:09

towel as far as the

01:24:11

investment was concerned that they

01:24:13

were not interested. They ended

01:24:16

up losing the case Mexico

01:24:18

ended up losing the investment

01:24:20

in like I said, it

01:24:21

was ultimately an investment proposition,

01:24:23

but I think it takes

01:24:24

a different mindset. As to

01:24:27

how you looking at, you

01:24:30

know, what is possible? Not

01:24:32

not all Disputes can be

01:24:36

settled in this manner or

01:24:38

can be mediated. Now a

01:24:40

mediator can take a look

01:24:42

at your the parties and

01:24:44

say, you know, this is

01:24:45

there will be no check

01:24:49

but that's turn this into

01:24:50

a successful business. That's interesting

01:24:55

for the state. That's interesting

01:24:57

for the investor. And I

01:24:59

think mediation can go a

01:25:00

long way and that's respect

01:25:02

now just briefly on your

01:25:04

second question. I'm not as

01:25:07

qualified as my Colliers. Yep,

01:25:11

that's the Chinese position. But

01:25:14

my my understanding is China

01:25:18

still supports arbitration and still

01:25:21

supports investors participating Princeton in

01:25:24

appointing arbitrators. And that is

01:25:28

why it is thought of

01:25:29

a of an appellate mechanism

01:25:32

s a s t r

01:25:33

a supposed to an investment

01:25:34

know any batsman cord my

01:25:38

own view is that it

01:25:39

will not happen. I think

01:25:42

the prospects of an appellate

01:25:44

mechanism as complicated as that

01:25:47

that maybe our it has

01:25:51

a better Prospect than an

01:25:53

investment court and investment poor

01:25:55

can only be successful if

01:25:57

it is truly multilateral and

01:26:00

even you know, Chinese had

01:26:02

to have a very particular

01:26:03

view of the long-term long-term

01:26:05

in Chinese currency is very

01:26:08

very very long-term. Batman term

01:26:11

investment or it will happen

01:26:14

in the very long-term in

01:26:17

Chinese, you know term so

01:26:19

I don't think any of

01:26:21

us will be around here

01:26:22

to see it happen. But

01:26:25

an appellate mechanism it it

01:26:27

might and there is legitimate

01:26:30

concern about the uniformity of

01:26:34

decisions about predictability about correcting

01:26:41

certain mistakes that I think

01:26:45

it's face is a better

01:26:46

Prospect. Quickly with flat on

01:26:52

the example given by Hugo

01:26:55

on mediation. I think we're

01:26:58

official thing individuals of Katherine's

01:27:00

a movie Sometimes in resolving

01:27:03

a dispute is actually an

01:27:05

easier option than a fat

01:27:06

lazy option to them to

01:27:08

go to arbitration. And in

01:27:11

the context of assessing the

01:27:13

prospect of mediation, I think

01:27:15

of his defining the people

01:27:18

and the group with the

01:27:19

right of Rarity and and

01:27:20

with the right mindset to

01:27:21

make the decisions are always

01:27:22

challenging but having a good

01:27:25

understanding of the government system

01:27:27

and the internal procedures will

01:27:29

almost give you a good

01:27:30

sense as to whether is

01:27:32

an appropriate cage for resolving

01:27:35

it via mediation. Elizabeth I

01:27:44

think just on mediation. The

01:27:46

other thing that to their

01:27:47

mind is I think that

01:27:48

there needs to be work

01:27:49

to be done internally within

01:27:50

the government to instill in

01:27:53

positions where people important decisions

01:27:57

can be made to encourage

01:27:58

the adoption of mediation people

01:28:00

with the expertise and experience

01:28:01

to do the advocacy internally

01:28:04

within the government in addition

01:28:05

to the color external training

01:28:07

that Teresa has mentioned. I

01:28:08

think, you know what needs

01:28:10

to be done in parallel

01:28:12

in order to promote mediation

01:28:14

as an alternative to arbitration,

01:28:16

Mississippi restitution. Time is flying

01:28:21

fast. It's a time to

01:28:25

close all over a panel

01:28:27

discussion. Thank you all day

01:28:29

and all your very valuable.

01:28:36

Speech for the audience and

01:28:46

the oil time. Thank you.

00:00:03

Welcome at 2 our star

00:00:06

third session of world arbitration

00:00:09

update. China Insight so it's

00:00:14

a great pleasure to have

00:00:15

our third panel. This afternoon.

00:00:21  
and I am I would

00:00:30  
like to give some some

00:00:33  
information with respect to our

00:00:37  
esteemed moderator. End up with

00:00:51  
with that happened before before

00:00:53  
getting into that. I'd like

00:00:56  
to give a big shout

00:00:58  
in terms of the topic

00:01:00  
that this panel will be

00:01:01  
addressing. It is the status

00:01:03  
and perspective of the belt

00:01:06  
and Road initiative Bri in

00:01:09  
international arbitration as as we

00:01:14

all know the belt and

00:01:16

Road initiative is is part

00:01:19

of the import of the

00:01:20

economic policy of of an

00:01:23

trade and and also investment

00:01:25

policy of China, but he

00:01:27

has so far had the

00:01:28

influence in many many countries

00:01:31

that are included in the

00:01:34

belt on Dunn Road and

00:01:37

being from South America, but

00:01:38

also from the US I

00:01:40

can see that influence throughout

00:01:42

especially in many countries in

00:01:46

Latin America, but also in

00:01:47

Africa and Asia and The

00:01:50

question came to us in

00:01:51

terms of its influence in

00:01:54

international arbitration because as we

00:01:55

know there's there's many many

00:01:57

many dispute resolution systems within

00:01:59

the belt and Road initiative

00:02:01

not only arbitration but special

00:02:04

courts excetera. So on this

00:02:06

occasion we have and will

00:02:08

put together a panel to

00:02:10

address those issues, especially in

00:02:12

arbitration. So it is my

00:02:14

pleasure to introduce our moderator

00:02:17

who is Professor you ding

00:02:22

dong at who is a

00:02:24

professor of international law and

00:02:27

he is also the director

00:02:29

of international economic law at

00:02:32

the department of the institute

00:02:33

for international law of the

00:02:35

Chinese Academy of social sciences

00:02:37

is also the vice president

00:02:39

of the WTO law research

00:02:41

Society of China Law Society

00:02:44

and he is Vice President

00:02:45  
of China's arbitration Law Society

00:02:47  
and I will stop there.

00:02:49  
Cuz I don't want to

00:02:50  
eat more of his time.

00:02:52  
So with us you have

00:02:55  
the floor professor. Medicines for

00:03:02  
of Nazareth to introduce myself

00:03:04  
to all of you and

00:03:07  
that it's my pleasure to

00:03:10  
be here to be done

00:03:14  
and just introduced the the

00:03:22  
background and the meaning of

00:03:24  
The Sopranos coffee. So I

00:03:28

first I would like to

00:03:30

use wipes panels presenters will

00:03:36

see what type of speech.

00:03:43

Thank you. Thank you for

00:03:45

us to leave. Good afternoon,

00:03:47

distinguished guests ladies and gentlemen,

00:03:50

I'm delighted to be here

00:03:52

today to deliver an opening

00:03:53

for this session status and

00:03:56

Prospects of the belt and

00:03:57

Road initiative in international arbitration.

00:03:59

She in 2013 is a

00:04:13

Grand Vision that encompasses the

00:04:15

Silk Road economic belt and

00:04:17

two 21st century Maritime Silk

00:04:19

Road is aimed at enhancing

00:04:21

policy coordination Financial economic and

00:04:25

trade integration and fostering connectivity

00:04:28

between people and cultures. A

00:04:31

decade on the Bri has

00:04:33

achieved tremendous progress. Cumulative economic

00:04:36

engagement has reached over 1

00:04:38

trillion u.s. Dollars one more

00:04:40

than 150 countries have signed

00:04:42

on to the PRI framework.

00:04:44

These underscore the initiative significant

00:04:47

impact and reach in shaping

00:04:49

global economic landscape. Given the

00:04:53

brics scale and complexity These

00:04:56

Boots are bound to arise

00:04:57

and have indeed a reason.

00:04:59

He's having company resolved through

00:05:02

International arbitration. In the next

00:05:04

few minutes, I will seek

00:05:06

to briefly reflect on some

00:05:08

of the past and present

00:05:09

issues in DIY projects how

00:05:12

I betray Sheehan has reflected

00:05:14

has helped parties to navigate

00:05:17

them. What issues out on

00:05:18

a Verizon? One major challenge

00:05:24

in DIY projects we've seen

00:05:26

it. It's the management of

00:05:27

multiparty disputes a single event

00:05:30

in trigger claims across different

00:05:32

layers of the contract resulting

00:05:35

in a multiplicity of proceedings

00:05:37

involving parties ranging from host

00:05:40

governments lend us or the

00:05:42

companies contractors than this any

00:05:46

Shores. Arbitration possibly addresses these

00:05:50

of them as major institutions

00:05:52

provide rules and complex arbitration

00:05:55

such as consolidation joined the

00:05:58

commencement of single arbitration under

00:06:00

multiple contracts and concurrent proceedings.

00:06:05

Alberto institutions are also developing

00:06:07

jurisprudence based on their experiences

00:06:09

in managing such issues. Is

00:06:13

house in some ways mitigated

00:06:15

time and cost concerns for

00:06:16

commercial parties and the risk

00:06:18

of inconsistent outcomes? Another challenge

00:06:23

especially relevant to dispute resolution

00:06:25

is a technical nature of

00:06:27

Bri projects. Adjudication parties claims

00:06:30

requires a degree of technical

00:06:32

understanding of the industry and

00:06:34

the projects themselves a simple

00:06:37

non-payment under a power purchase

00:06:39

agreement for example, and give

00:06:41

rise to complex technical issues

00:06:43

of how power plants operate

00:06:45

and underline science of power

00:06:47

production. Arbitration allows parties to

00:06:52

select arbitrators with the requisite

00:06:54

expertise to handle the case.

00:06:56

You made them the confidence

00:06:57

that they needs and knowing

00:07:00

that their claims are in

00:07:01

capable hands. You should have

00:07:04

crossed for the nature of

00:07:05

your eye projects resolving disputes

00:07:07

also require experience and expertise

00:07:09

in foreign laws. It may

00:07:12

not be a straightforward exercise

00:07:13

for domestic court's especially in

00:07:16

developing countries. In contrast, the

00:07:20

identification and application of foreign

00:07:22

law is a regular feature

00:07:23

in international arbitration. a universe in

00:07:27

Council of Miller with now

00:07:29

well-placed to handle multi-jurisdictional disputes

00:07:33

Is that a challenge with

00:07:35

Bri projects is managing political

00:07:37

risks with in-house countries many

00:07:40

projects which have long life

00:07:42

cycle a vulnerable to the

00:07:43

impact of changing host governments

00:07:45

is often leads to consequential

00:07:48

changes of tax and Licensing

00:07:50

regimes as well as political

00:07:51

instability, and I'm breast. Treaty

00:07:55

arbitration has played a role

00:07:56

in mitigation of these risks

00:07:58

protecting investors from expropriation and

00:08:01

other unfair treatments. I'll ask

00:08:04

for investment treaties concluded by

00:08:06

China with many Bri countries

00:08:08

include investor-state dispute settlement mechanism

00:08:11

provides an Avenue for grad

00:08:14

parties to seek recourse against

00:08:16

host States and I just

00:08:17

ran to the contractor remedies.

00:08:20

These are just a few

00:08:21

of the Myriad challenges faced

00:08:23

by stakeholders and Bri projects

00:08:25

has so far been effective

00:08:28

in resolving related disputes. It

00:08:31

must continue to evolve in

00:08:33

order to remain fit for

00:08:34

purpose. Looking ahead arbitration would

00:08:38

likely need to Prattville with

00:08:39

amongst others three key issues.

00:08:42

The first is harmonizing the

00:08:44

dispute resolution framework. As mentioned

00:08:47

earlier, our projects often involves

00:08:50

many countries each with his

00:08:51

own legal system practice and

00:08:54

pace of development. Jesus letra

00:08:57

complexities and uncertainties in terms

00:08:59

of legal outcomes 20 supposed

00:09:02

to rise identical issues could

00:09:04

be treated differently under related

00:09:06

contracts depending on the applicable

00:09:08

law mean while the degree

00:09:11

of domestic court support of

00:09:12

empowered to a top attraction

00:09:14

in also very greatly across

00:09:16

Bri countries. To further complicate

00:09:19

matters related to arbitration agreement

00:09:22

agreements may not necessarily be

00:09:24

compatible events and consolidation of

00:09:27

proceedings and increasing the risk

00:09:29

of conflicting Awards. As investment

00:09:32

find it becomes more volatile

00:09:33

if it's at all levels

00:09:35

and hence predictability and consistency

00:09:39

in the outcome of this

00:09:40

resolution will be crucial. The

00:09:43

second issue is the future

00:09:44

impact of digital transformation. Technological

00:09:49

advancement can revolutionize the way

00:09:51

in which be alright disputes

00:09:52

are resolved. One important trend

00:09:55

is the development of online

00:09:57

dispute resolution, which adopts distributed

00:10:00

Ledger technology and smart legal

00:10:02

contracts. Ensure availability and quality

00:10:06

of evidence used in arbitration

00:10:08

between perennials records can be

00:10:10

accessed and verified on a

00:10:13

blockchain platform. Once an award

00:10:16

is rented funds from an

00:10:17

escrow account can be automatically

00:10:19

released to the winning party.

00:10:22

These are just a few

00:10:23

examples through which efficiency of

00:10:26

arbitration and enforcement of word

00:10:28

can be greatly enhanced. Is

00:10:32

that issue concerns the ongoing

00:10:33

shifts of geopolitics? Us China

00:10:37

tension Regional conflicts and economic

00:10:40

sanctions in recent years. I've

00:10:42

let it be alright if

00:10:43

I cross the contract. These

00:10:47

issues got the pace. The

00:10:49

number of disputes is bound

00:10:50

to increase in the coming

00:10:51

years. It's National application has

00:10:54

she would agree responded to

00:10:56

these developments? For example Alberto

00:11:00

institutions Implement extension policies including

00:11:04

on disclosure of sanction related

00:11:06

information and payment arrangements to

00:11:08

meet a sanctions risk. The

00:11:10

greater and Foster adaptation is

00:11:13

needed to ensure the arbitration

00:11:14

remains a suitable means to

00:11:17

resolve future disputes. Overall the

00:11:22

belt and Road initiative with

00:11:23

his vast scope and ambitious

00:11:25

Vision has presented complex and

00:11:27

multifaceted challenges. It has tested

00:11:31

the resilience and adaptability of

00:11:33

existing dispute resolution process. It

00:11:36

will be interesting to see

00:11:37

how a patrician with his

00:11:39

inherent flexibility and capacity for

00:11:42

Innovation will adapt to the

00:11:44  
changing needs of commercial parties

00:11:46  
and logical progress and geopolitics

00:11:48  
on that note. I will

00:11:51  
now pass the time back

00:11:52  
to mr. Leo the moderator

00:11:54  
for this session to introduce

00:11:55  
our panel of distinguished speakers.

00:11:57  
Thank you. Thank you, Missy.

00:12:01  
I forgot introduce the multi

00:12:05  
Mark. He is supporting lawyers

00:12:08  
from the Herbert Smith freehills.

00:12:10  
It's very young and very

00:12:14  
humorous lawyers. You can speech

00:12:19

introduce the Belden Road ground

00:12:22

background and very important meeting

00:12:26

for the international Retreat and

00:12:28

he wants them and he

00:12:31

gave us a lot of

00:12:34

information than a knowledge about

00:12:38

a challenge risk some important

00:12:46

issues like the TT 250

00:12:48

to information transfer a deal.

00:12:51

Especially a focus on the

00:12:56

arbitration and other illegal tools

00:13:02

to handle disputes and other

00:13:06

legal issues in belt and

00:13:08

Road initiative. Thank you. Thank

00:13:11

you for your very good

00:13:13

speech. And all about the

00:13:17

Centre of nysers international a

00:13:22

between updates to give us

00:13:24

the very important and valuable

00:13:26

a chance to talk about

00:13:29

the arbitration the relationship between

00:13:32

application and the b&i initiated

00:13:35

in or I know we

00:13:39

have the three very famous

00:13:41

a treat her or lawyers

00:13:44

to talk about this topic.

00:13:46

The first one is over

00:13:50

in the whole. He's a

00:13:52

partner had the office incense

00:13:57

Manson Hong Kong. ont you

00:14:03

have the 15 minutes. Thank

00:14:05

you mister new and thank

00:14:07

you Mercy for that great

00:14:09

opening. Basically Murphy touches the

00:14:12

point of all this very

00:14:14

fascinating and dynamic at-bats in

00:14:18

the arbitration that made many

00:14:24

of our arbitro protection is

00:14:27

very interested in this developing

00:14:31

area. I was involved in

00:14:35

the first and then we'll

00:14:36

put that back in 2015

00:14:38

which sadly became in arbitration.

00:14:41

And one thing that I

00:14:45

like about the bone roll

00:14:47

flipping is arbitration petition as

00:14:51

you got to travel to

00:14:53

many different countries and jurisdictions

00:14:56

that you never heard about

00:14:58

all that you can barely

00:14:59

find on the map so

00:15:02

is in very interesting feature

00:15:05

and before I pick up

00:15:07

some of the topics mansion

00:15:10

by Murphy and dive into

00:15:11

it. I just want to

00:15:13

raise one housekeeping Masa. I

00:15:16

mean a man a man

00:15:17

panelist and with mr. New

00:15:20

agreement will be opening the

00:15:22

floor for Q&A after each

00:15:25

other panelists giving their speeches.

00:15:27

So I will challenge you

00:15:29

to bring up some interesting

00:15:31

questions. 2 oz Paco into

00:15:34

a dynamic discussions after our

00:15:38

sharing To contribute to today's

00:15:43

panel discussion on the status

00:15:46

and perspective of the paramour

00:15:48

arbitration. I would like to

00:15:50

pick up to keep one's

00:15:52

just mentioned by Murphy Lee

00:15:56

station of procedural rules and

00:15:59

also the trooper electrical tension

00:16:04

that we are now seeing

00:16:06

in the arbitration and I

00:16:13

was just like to make

00:16:14

free observations as to going

00:16:17

forward how we can make

00:16:19

a patrician and even more

00:16:21

attractive option to all parties

00:16:24

involved in in Bernville operations

00:16:26

or open road projects. I'm

00:16:30

going to start with one

00:16:32

thing that I think the

00:16:34

arbitral community is already doing

00:16:36

pretty well. I mean these

00:16:40

days we see that many

00:16:41

arbitration petition is an arbitration

00:16:44

procedure rules in the Barren

00:16:48

Road projects have been paying

00:16:50

a lot much better. We

00:16:52

got to the cultural and

00:16:54

legal tradition differences between the

00:16:59

East and the west and

00:17:00

the mini Hanover hundred jurisdictions

00:17:03

that the brand will profess

00:17:05

landscape cover. I still remember

00:17:08

when I first work on

00:17:11

the ICC arbitration for a

00:17:13

Chinese clients in one of

00:17:15

the earlier by a project

00:17:16

it had taken us quite

00:17:19

a while to explain to

00:17:20

them all the different concepts

00:17:21

about document production. That means

00:17:24

someone like to refer it

00:17:25

as Discovery the purposes of

00:17:28

lighting. Witness accidents on the

00:17:30

concept of testing someone after

00:17:32

them through cuz examination one

00:17:37

of the witnesses was so

00:17:40

nervous that like she was

00:17:41

not able to sleep for

00:17:42

a few days before going

00:17:44

to give evidence in court

00:17:45

it mean if we had

00:17:47

this panel maybe five years

00:17:49

ago with this will be

00:17:50

what we are talking about

00:17:51

fast forward to where we

00:17:55

are these days. I think

00:17:58

I'm very pleased that when

00:18:01

we now have Parham Road

00:18:03

Project dispute with a mediation

00:18:06

electrician's I think the host

00:18:09

the arbitrators and the legal

00:18:11

petition is are increasingly sensitive

00:18:13

to all this cultural differences,

00:18:15

and I'm more willing to

00:18:17

harmonize are such differences and

00:18:20

find common grounds in the

00:18:22

arbitration process. These days the

00:18:25

arbitration rules provide a lot

00:18:28

of flexibility to accommodate the

00:18:31

different cultural values. It is

00:18:33

not uncommon for a trailer

00:18:36

still stays to give directions

00:18:38

to last day to keep

00:18:39

document production to a minimum

00:18:41

to keep the testing of

00:18:44

a oral accidents only to

00:18:47

Siri I extend and when

00:18:51

it comes to arbitration hearing

00:18:53

arbitrators quite often with my

00:18:56

Advocate, especially at maybe from

00:18:59

the stakes are not to

00:19:00

be unnecessarily aggressive and dramatic

00:19:03

and they are more sensitive

00:19:05

as to how some of

00:19:08

the demeanor of Chinese witnesses

00:19:11

witnesses in many Eastern Asian

00:19:16

countries, May differ from the

00:19:19

West End and how their

00:19:20

credibility should be assessed. Music

00:19:24

sample, it is not the

00:19:26

Chinese Palace custom to prepare

00:19:29

very lengthy speech 00 documents

00:19:33

are comprehensive cooperation, and they

00:19:36

are in general more reluctant

00:19:39

to express disagreement in in

00:19:41

meeting. But I think there

00:19:46

is still a mean Murphy

00:19:49

talk about looking forward at

00:19:52

the challenges. I think there

00:19:53

is still one thing this

00:19:56

a true Community can do

00:19:57

better which is the procedure

00:20:00

management and the police expectation

00:20:04

on time and cost of

00:20:05

arbitration. I mean this problem

00:20:07

doesn't show me apply to

00:20:10

perrinville arbitrations, but is more

00:20:13

important because of the cultural

00:20:19

background that we are coming

00:20:20

for arbitration to be the

00:20:23

most attractive option for resolving

00:20:26

disputes two parties in Paramore

00:20:29

projects. It has to be

00:20:31

efficient and timely I didn't

00:20:33

we we we don't disagree

00:20:34

with that. But I I

00:20:37

I find that part is

00:20:39

to arbitration Fair often after

00:20:41

concluding out you in the

00:20:43

process of On by the

00:20:45

tuition and cost of arbitration.

00:20:48

I mean when was the

00:20:50

last time that you had

00:20:51

an arbitration that doesn't delay

00:20:54

or late application to a

00:20:56

man memorials or had a

00:20:59

further application to refuse life

00:21:01

for no accidents or expire

00:21:03

evidence in a wholly new

00:21:05

area extensions of time. I

00:21:08

mean as petitioners doing arbitrations,

00:21:12

we all take it for

00:21:13

granted and sometimes it's an

00:21:15

avoidable, but when party's subscribe

00:21:19

to a set of arbitration

00:21:21

lose with very specific time

00:21:24

frames It's quite difficult to

00:21:28

explain two parties as to

00:21:31

why the tribunal usually is

00:21:33

still very accommodating in Grant

00:21:36

a name for your multiple

00:21:37

extension of time. So I

00:21:40

are at ease in in

00:21:42

in in this side of

00:21:44

the wall, maybe like given

00:21:46

to a for two parties

00:21:47

to have reasonable opportunity more

00:21:51

than reasonable. I would say

00:21:52

for for for for presenting

00:21:56

the case but maybe 40

00:22:00

Projects parties are expanding the

00:22:03

arbitrator to be driving at

00:22:07

managing the arbitrations with a

00:22:11

greater degree of control. And

00:22:15

that's something that I think

00:22:18

we can do better and

00:22:21

obviously it's a topic for

00:22:23

discussion. And I mean the

00:22:25

last thing I would like

00:22:26

to mention his voice Ways

00:22:30

by Murphy about the geopolitical

00:22:31

situation that we are now

00:22:34

facing. And given the very

00:22:37

large footprint of the Parham

00:22:39

Road projects and the last

00:22:41

number of countries and jurisdictions

00:22:42

in war the interaction between

00:22:46

two parties arbitration agreements and

00:22:50

and the award and arbitration

00:22:52

process on one hand. And

00:22:54

what each of the police

00:22:57

may be doing in the

00:23:00

court of the home jurisdiction

00:23:02

of the arbitration or or

00:23:06  
or even the seat of

00:23:08  
the enforcing Court can be

00:23:10  
very complex and indeed very

00:23:12  
interesting. I mean local courts

00:23:14  
can be engaged at different

00:23:17  
stages of the arbitration process.

00:23:19  
At the start you have

00:23:21  
gestational challenges and t-shirts in

00:23:24  
injunctions throughout the process local

00:23:27  
Court can issue a tantrum

00:23:29  
with Leaf affecting the arbitration

00:23:31  
process after obtaining a water

00:23:34  
can be a problem process

00:23:36

of resisting enforcement and at

00:23:38

various courts. Murphy mention about

00:23:43

the need to involve more

00:23:46

fun. No expertise. I cannot

00:23:49

agree with that more. I

00:23:51

I find a over the

00:23:52

years. I have been connecting

00:23:54

with so many law firms

00:23:56

or different jurisdictions because of

00:23:58

the need to obtain a

00:24:00

piece of opinion as to

00:24:01

walk arbitrations means to a

00:24:05

particular jurisdiction and how the

00:24:07

award can be challenging Reese's

00:24:09

in many different ways and

00:24:12

wishing you at work on

00:24:14

it and where one of

00:24:17

the parties command Court proceedings

00:24:19

expired assistance and and the

00:24:22

ongoing process of an arbitration.

00:24:24

Although the arbitrator in our

00:24:26

case has already issued in

00:24:29

Trump will leave everything for

00:24:31

the steps to be taken

00:24:32

in that domestic call, but

00:24:35

because of some sanctions issues

00:24:38

involved at the domestic court

00:24:40

just do Keep any we

00:24:41

got to the arbitrator's all

00:24:43

that and just proceed with

00:24:45

the the cases. We got

00:24:46

Leslie so it can result

00:24:48

as we already expanding multiple

00:24:51

now proceeding and Asthma Murphy

00:24:55

mention a conflicting judgments conflicting

00:24:58

Awards and conflicting out come

00:25:00

I have to say, I

00:25:02

mean those issues are very

00:25:04

interesting for our betrothal petitioners.

00:25:07

ThunderClan perspective is far from

00:25:10

satisfied satisfaction. But I mean,

00:25:14

this is something that we

00:25:15

all have to live with

00:25:17

and we don't have a

00:25:18

lot of control because of

00:25:20

the growing tensions that we

00:25:22

are witnessing in the world

00:25:24

which in a sense has

00:25:26

affected how International arbitration inbound

00:25:29

will operation will be conducted.

00:25:33

So I will now hand

00:25:34

over to you. Thank you.

00:25:41

And Q open speech to

00:25:45

Alden she heard he's a

00:25:47

very good experience and practices

00:25:51

in the Nashville area. And

00:25:55

the most interesting thing for

00:25:59

me is that you referred

00:26:03

to hominization of the international

00:26:05

arbitration procedure and how to

00:26:09

handle the difference of the

00:26:11

cultures and different country different

00:26:13

customers. I think it is

00:26:17

very very complex problems for

00:26:21

the international arbitration cross-examination. You

00:26:27

could forward to China the

00:26:32

Chinese have a different outer

00:26:36

reach the Western culture. I

00:26:40

think it's important for us

00:26:43

to harmonize the difference between

00:26:47

the difference between the different

00:26:51

countries people in the cultures

00:26:52

and we shoot. Supports the

00:26:58

mother law of arbitration use

00:27:01

to harmonize the different countries

00:27:04

arbitration rules so we can

00:27:07

talk about this topic maybe

00:27:09

up to the station and

00:27:11

the thank U. Next speaker

00:27:14

is Teresa Chen. I don't

00:27:17

wish to introduce Mary Morris.

00:27:22

Did they know he is

00:27:25

he is he always Abbott

00:27:33

recent areas, especially car Council

00:27:36

and the Very femurs between

00:27:40

her and the lawyers. She

00:27:42

is seeing their Council of

00:27:44

Hong Kong in the chambers

00:27:46

of the Sony Packers kneel

00:27:50

you see I see you

00:27:52

pee at one time to

00:27:56

you. Thank you. Nonetheless some

00:28:00

team do for that very

00:28:02

kind introduction after you said

00:28:04

you were not introduced me.

00:28:07

What I would like to

00:28:10

do in the time allotted

00:28:11

to me is perhaps to

00:28:13

ask you all to look

00:28:14

at the topic again that

00:28:16

we had to cover. I

00:28:17

think it is not just

00:28:19

about International arbitration. It is

00:28:23

actually the status and Prospects

00:28:25

of the Bri in international

00:28:28

arbitration. So it is really

00:28:30

the status and Prospects of

00:28:33

PRI that we ought to

00:28:34

be focusing in and but

00:28:37

none the less, of course

00:28:38

in the context of the

00:28:39

international arbitration know when we

00:28:43

talk about what's the prospects

00:28:45

we are looking at the

00:28:46

prospects of the lawyers will

00:28:47

arbitrator or the prospects of

00:28:50

the uses of the prospects

00:28:52

of the completion of the

00:28:53

particular project under a BRI

00:28:56

project. So these are things

00:28:59

that actually the topic is

00:29:00

very Broad and actually because

00:29:03

with that in mind I

00:29:04

wish to move a little

00:29:06

bit away from International arbitration

00:29:09

is done for the haps

00:29:10

what other ways there are

00:29:12

in handling Bri projects. I

00:29:14

think it has. Social be

00:29:18

touched by the farmers speakers

00:29:20

the next think I think

00:29:23

to to try and discuss

00:29:25

this subject we have to

00:29:27

think about the types of

00:29:28

projects are types of contracts.

00:29:31

That's with the rice and

00:29:32

Bri projects. Usually we think

00:29:35

and they offer major infrastructure,

00:29:37

but surely we are aware

00:29:38

that it couldn't shoot hospitals

00:29:41

building a school Visa Road

00:29:44

Bri projects because it is

00:29:46

with the view to and

00:29:47

I think he mentioned it

00:29:49

with a view to perhaps

00:29:50

create a harmonious society and

00:29:54

indeed it aligns very much

00:29:56

with the 2030 agenda of

00:29:58

the United. Nations of sustainable

00:30:03

development goal that is to

00:30:05

create how many peaceful coexistence

00:30:07

and so on. So I

00:30:08

think the types of projects

00:30:10

is very proud and maybe

00:30:12

I must say with some

00:30:14

construction projects in mind then

00:30:17

the next thing to look

00:30:18

at is perhaps the Locale

00:30:19

of this project is now

00:30:21

we cannot I'm sure my

00:30:23

my colleagues can not tell

00:30:24

them where the projects are

00:30:25

because then it could be

00:30:27

divulging the confidence of the

00:30:29

arbitration but we know that

00:30:30

a lot of them are

00:30:31

Mexican and the Central Asian

00:30:35

States and so one would

00:30:37

expect some of these disputes

00:30:39

arising from these areas. And

00:30:41

of course, we know that

00:30:42

the the contractors that is

00:30:45

all the concession that mainly

00:30:48

Chinese companies. That that is

00:30:53

the context. I think we

00:30:54

are looking at when we

00:30:55

talkin about these types of

00:30:56

projects. Now, I will mention

00:30:59

a few things that I

00:31:00

think we need to look

00:31:03

at. When when we talkin

00:31:05

about International arbitration as my

00:31:07

colleagues have I think mentioning

00:31:10

the multi-party one of the

00:31:12

very great difficulty that I

00:31:14

think of confession as a

00:31:17

participant seen Bri projects have

00:31:20

is to ensure compatibility of

00:31:23

the arbitration clauses. Compatibility

00:31:26

in the main contractor and

00:31:28

subcontractor arbitration clauses is actually

00:31:31

very important because without that

00:31:34

you cannot have consolidation and

00:31:36

one of the difficulties, I

00:31:38

understand from people who have

00:31:40

been involved in this project

00:31:41

is that the main contract

00:31:43

usually dictated in terms of

00:31:46

terms and as a as

00:31:47

a negotiating Power by the

00:31:48

employer therefore it tends to

00:31:51

be something that perhaps the

00:31:53

chinese-made contractor or the Chinese

00:31:55

concessionaire is not entirely familiar

00:31:58

with for example using English

00:32:00

law, for example, adopting a

00:32:04

a an arbitration in a

00:32:07

place that is not so

00:32:09

familiar to the Chinese parties.

00:32:11

Now that the difficulties comes

00:32:13

is the subcontractor usually hands

00:32:16

also to be a Chinese

00:32:17

company provide think Manpower. They

00:32:21

would probably be hotly dealt

00:32:23

with through an albatraoz. BAC

00:32:26

for exams for example, but

00:32:28

in order to ensure that

00:32:30

the compatibility of the arbitration

00:32:32

Agreements are reached in the

00:32:34

event of a need to

00:32:35

consolidate that will then necessitate

00:32:39

the whole network of contracts

00:32:43

involved in a PRI project

00:32:45

to be looked at and

00:32:47

work together. So that compatibility

00:32:49

is a chief and if

00:32:51

need be to bring in

00:32:53

a particular consolidation when arbitration

00:32:57

rice now on the question

00:32:59

of substantive law, I think

00:33:02

both Elvin and most he

00:33:05

mentioned sanction that support questions

00:33:08

that could arise in their

00:33:09

work. No one very interesting

00:33:11

thing and I think that's

00:33:12

important to bear in mind.

00:33:13

It's quite interesting little story

00:33:15

and I cannot divulge the

00:33:17

names of the countries of

00:33:18

the parties country a has

00:33:21

sanctioned a financial institution in

00:33:24

country. country B's legal advice

00:33:29

is that the contracts of

00:33:32

that financial institution can no

00:33:35

longer apply the laws of

00:33:37

country a So that's of

00:33:41

course may not be the

00:33:42

same in every jurisdiction. But

00:33:44

that is quite and lightening

00:33:46

in terms of ensuring that

00:33:48

your your contracts and and

00:33:50

the applicable law but then

00:33:52

be a Delta sensor play

00:33:54

the next thing with International

00:33:57

arbitration is of course just

00:33:59

now we mentioned maybe generally

00:34:01

government or perhaps requested by

00:34:05

the employer as a dwell

00:34:08

in the Construction contract is

00:34:10

the seat of the arbitration.

00:34:13

If there is a chance

00:34:14

for Chinese companies to be

00:34:16

able to negotiate, please negotiate

00:34:19

with in the time zone

00:34:21

that you are familiar with

00:34:22

rather than to travel to

00:34:24

Paris or to other parts

00:34:27  
of the world. I love

00:34:28  
Paris by the way, huh.

00:34:29  
I would love to Paris

00:34:31  
to shopping and eating and

00:34:33  
arbitrating a swell time zone

00:34:36  
is very important choice. It's

00:34:38  
a small choice, but it's

00:34:39  
a very important choice because

00:34:42  
it will affect how you're

00:34:44  
going to handle the documents

00:34:46  
that you might need to

00:34:47  
dig up in the middle

00:34:48  
of the night in order

00:34:50

to prepare for being cross-examined

00:34:52

of cross-examining the other side

00:34:54

in the middle of a

00:34:56

hearing and therefore, these are

00:34:58

small Logistics, but it's very

00:35:00

simple advice. I would suggest

00:35:01

would be that Astoria time

00:35:04

I tell again relating to

00:35:07

Bri is when parties negotiates

00:35:11

on the choice of the

00:35:13

institution. Usually we have institutional

00:35:16

application nowadays. I talk it's

00:35:19

it's a it's more of

00:35:21

a historical feature. So they

00:35:23

were negotiating the relevant institution

00:35:26

to try and find the

00:35:28

the place the seat for

00:35:30

arbitration with the relevant to

00:35:32

the story. I heard is

00:35:34

that Trump say the employer

00:35:36

would ask That's already the

00:35:39

Chinese companies would suggest okay,

00:35:41

let us go to and

00:35:43

then again, I won't name

00:35:44

the particular occasions. They would

00:35:46

say this particular institution another

00:35:49

one another one and the

00:35:51  
tends to be in in

00:35:52  
particular in African States because

00:35:54  
they are unfamiliar with this

00:35:55  
part of the world. They

00:35:57  
tend to say no because

00:35:59  
they say that these are

00:36:00  
local institution and therefore they

00:36:04  
didn't tend to choose ICC

00:36:07  
Paris and London, for example

00:36:10  
that is not ideal for

00:36:12  
Chinese parties and therefore in

00:36:14  
which case I float to

00:36:15  
you. Another alternative said you

00:36:18

may wish to consider and

00:36:21

that is to use the

00:36:22

ALCO the Asian African legal

00:36:24

consultative organization arbitration bodies. Now

00:36:29

I should not be saying

00:36:30

that to me in a

00:36:31

BAC event. BAC is your

00:36:33

first choice without doubt, but

00:36:35

when when when that comes

00:36:37

to a Malaysian where they

00:36:39

say I don't want to

00:36:40

go to a local local

00:36:42

as in the sense of

00:36:43

local to a particular geographic

00:36:45

location try that because the

00:36:47

Elco has 48 members. The

00:36:50

number of them are African

00:36:51

States and they would therefore

00:36:53

be familiar with this body

00:36:55

against the government would be

00:36:56

and maybe more amenable now

00:36:59

I say Elco there a

00:37:01

sixth sense in in the

00:37:04

Alcoa Patrol buddies Cairo Lagos,

00:37:12

Nairobi, Malaysia and Hong Kong

00:37:20

so you can choose these

00:37:23

six bodies. They have standard

00:37:25

rules and you can choose

00:37:26

the one that will be

00:37:27

most suitable and more acceptable.

00:37:29

So that's an alternative is

00:37:31

that because that's an inter-governmental

00:37:32

organization. So you are free

00:37:35

and you can move away

00:37:36

from the argument that it

00:37:38

is. A local body because

00:37:39

the horror story I heard

00:37:41

is that without agreeing to

00:37:44

any of the institutions local

00:37:47

institutions for the parties then

00:37:49

end up agreeing is ad

00:37:51

hoc arbitration in a particular

00:37:54

location in Africa that they

00:37:56

have not even heard of

00:37:58

and and it is very

00:38:00

scary. If you think of

00:38:01

your arbitration ending up there

00:38:03

and you don't even know

00:38:04

how to handle it. So

00:38:06

am I float that has

00:38:07

an idea for you when

00:38:09

you are negotiating your arbitration

00:38:11

clause. Now then let's move

00:38:13

on to the types of

00:38:15

Clauses that are typical in

00:38:17

Bri projects. I think it's

00:38:19

you can glean from the

00:38:21

discussions from Murphy and elves

00:38:23

and they tend to be

00:38:24

escalation Clauses or multi-tiered dispute

00:38:29

resolution closes in which you

00:38:32

start with usually the the

00:38:34

the site trying to agree.

00:38:36

If not you go to

00:38:37

the Senior Management. If not,

00:38:39

you go to mediation. If

00:38:41

not, you go to adjudicate

00:38:41

urine and if not, you

00:38:43

go to arbitration at the

00:38:44

end of the projects. I

00:38:47

would advise for other contracts.

00:38:49

I should say I would

00:38:50

advise and tightly against it

00:38:52

but for construction my own

00:38:55

experience is that sometimes these

00:38:57

work if you are if

00:39:00

you dropped it promptly and

00:39:03

if you manage them properly,

00:39:04

it works because in the

00:39:06

long construction project you need

00:39:09

decisions to move on you

00:39:11

cannot forever. The letters disagreeing

00:39:14

things of forever be reserving

00:39:16

your rights on the particular

00:39:17

to speak to at least

00:39:19

using these steps. You have

00:39:22

something resolved very quickly on

00:39:26

an interim basis and if

00:39:28

it is in an on

00:39:30

an interim basis and then

00:39:31

has the benefit of being

00:39:33

reviewed later but you move

00:39:35

on with the project because

00:39:37

there's nothing more scary looking

00:39:39

at the prospects of Bri

00:39:41

in international arbitration. You want

00:39:43

the prospects of completing the

00:39:45

project. So escalation closes possible

00:39:48

not bad idea in construction

00:39:50

dispute provided distracted properly. So

00:39:54

you need good advice good

00:39:56

lawyers to drop those closest

00:39:58

in order for them to

00:39:59

be used. But having said

00:40:03

that I understand that because

00:40:05

with a view to try

00:40:07

and resolve the dispute there

00:40:09

and then there is growing

00:40:11

growing use of experts determination

00:40:15

as I heard yesterday, and

00:40:17

I've had previously people are

00:40:19

encouraging encouragingly using that as

00:40:23

a processed. Now, if you

00:40:25

do those who are in

00:40:26

the construction industry would know

00:40:28

that you would have the

00:40:29

engineer's decision. The compressor doesn't

00:40:31

like it and then you'll

00:40:32

have to swallow it and

00:40:34

move on. So therefore the

00:40:35

expert determination in the in

00:40:37

the way very quickly reviews

00:40:39

the engineer position and provide

00:40:41

the basis for parties to

00:40:43

move on so that is

00:40:44

a game and not a

00:40:46

bad idea again identifying narrowing

00:40:50

to dispute it is that

00:40:51

that's all these processes involve

00:40:54

a very clear identification and

00:40:57

Fellini. Malaysian of the issues

00:41:01

that you refer to each

00:41:02

of these processes. All right.

00:41:03

So the expert determination is

00:41:05  
something that that one should

00:41:07  
bear in mind nowadays. I

00:41:09  
think it well. Nowadays. I

00:41:11  
think in fact just yesterday.

00:41:12  
I was also questioned about

00:41:14  
the stages of such an

00:41:15  
expert determination. I think it

00:41:17  
very brief times. It just

00:41:19  
contractually binding and it's interesting

00:41:22  
faces its interim until you

00:41:24  
seek to review it at

00:41:26  
the end of the day

00:41:27  
and of course, it depends

00:41:28

how your contract and how

00:41:30

your expert determination closest Ralph's

00:41:32

to her that the idea.

00:41:34

Of course, you can make

00:41:35

it by knowing that it's

00:41:36

not reviewable in which case

00:41:38

parties don't like it. They

00:41:39

always like to have a

00:41:40

chance to fight it all

00:41:41

out in an arbitration. So

00:41:43

that's that seems to be

00:41:45

very much friend the other

00:41:48

things that will assist in

00:41:50

reducing or narrow of the

00:41:53

dispute in an international arbitration

00:41:55

is the use of dispute

00:41:57

Sports. In construction projects be

00:42:00

there whether you call it

00:42:01

d a p or D.

00:42:02

I'll be at least dispute

00:42:04

Sports tend to have attraction

00:42:07

of actually pre-empting. The dispute

00:42:10

is used to describe them

00:42:12

as like can people who

00:42:14

are smelling whether something is

00:42:16

likely to go wrong and

00:42:18

then nibbled at the bat.

00:42:19

And so therefore you may

00:42:21

have a chance of actually

00:42:22

presenting the difference be coming

00:42:25

into a dispute. So you're

00:42:29

actually it is part of

00:42:30

a dispute avoidance measure and

00:42:33

construction contracts have that. I

00:42:35

think she did have those

00:42:36

terminology, but they're just not

00:42:37

used to know because contracted

00:42:40

sent you things are costly

00:42:42

but they're not three persons.

00:42:46

Once a month or once

00:42:48

every 3 months fly them

00:42:50

to the project and today's

00:42:52

meeting compared to a long

00:42:54

drawn-out arbitration. It is entirely

00:42:56

worth it. It's really good

00:42:58

value if you again manage

00:43:01

it well and use it.

00:43:02

Well, so consider using the

00:43:05

rbj be in your project

00:43:07

do not think of the

00:43:09

immediate cause because of disputes

00:43:11

will definitely arise during a

00:43:15

construction projects and it's a

00:43:16

matter of avoiding them and

00:43:19

managing them to mention. I

00:43:22

don't talk about adjudication because

00:43:25

some it in the interest

00:43:27

of time to let's talk

00:43:27

about mediation. Mediation has its

00:43:31

benefits. And in fact, we

00:43:33

are looking at Bri mediation

00:43:35

should be promoted more than

00:43:38

arbitration because with the idea

00:43:40

of Bri Goshen County Mutual

00:43:47

share Mutual built Thank you

00:43:51

building and sharing and enjoying

00:43:53

that really means that you

00:43:55

have to have a course

00:43:57

at the collaborative effort and

00:44:00

using mediation to settle the

00:44:02

particular dispute and when

00:44:04

it arises nipping at the

00:44:07

bar and you move on

00:44:08

with the project keeping good

00:44:10

relationship, it can be done

00:44:12

on an issue by issue

00:44:14

basis. You don't have to

00:44:15

wait wait till the end.

00:44:16

So you're escalation drafting of

00:44:19

escalation Clauses will allow you

00:44:21

to use these mechanisms to

00:44:23

achieve what I would prefer

00:44:24

to call dispute avoidance not

00:44:27

so much a dispute resolution

00:44:29

now, then I know that

00:44:31

we'll be talkin about investment

00:44:34

and let me then share

00:44:36

another story again without divulging

00:44:38

any parties or I need

00:44:40

to restrictions. Two companies have

00:44:43

just two Chinese companies wanting

00:44:45

to invest in a particular

00:44:48

continent. I'll have to give

00:44:51

it as as as a

00:44:51

treat in the particular continent

00:44:54

and both of them for

00:44:58

us to go to Hong

00:44:59

Kong to start the you

00:45:01

know, do the IPOs and

00:45:03

Corporation structure. One of them

00:45:05

then went to the Netherlands

00:45:07

to then set up the

00:45:09

SPV in order to invest

00:45:11

in that particular country. The

00:45:13

other one goes directly from

00:45:15

Hong Kong to that particular

00:45:16

come to the same measure

00:45:19

of the same acts with

00:45:20

taken by the government in

00:45:22

that country that causes allegedly

00:45:26

according to the company's a

00:45:27

damages to them and they

00:45:29

they definitely are now dealing

00:45:31

with it in the in

00:45:33

the in the country within

00:45:34

that country know if this

00:45:36

matter Phil's Inn Resort in

00:45:40

being resolved in that country,

00:45:42

then it might have to

00:45:44

end up in investor-state dispute.

00:45:48

Hong Kong for example doesn't

00:45:50

have a Hong Kong can

00:45:52

enter into bilateral investment arrangement

00:45:55

with other jurisdictions, but we

00:45:58

don't call it treaty because

00:46:00

we know the country as

00:46:01

you know, which one country

00:46:02

two systems but we're allowed

00:46:04

to enter into that and

00:46:05

Hong Kong has about 22

00:46:07

of such an investment protection

00:46:10

arrangements with other countries Uncle

00:46:14

doesn't have with that particular

00:46:15

country Netherlands have with that

00:46:18

particular country and there for

00:46:21

the protection that would be

00:46:22

a afforded to the one

00:46:25

that uses Netherlands to establish

00:46:27

an SPV to go to

00:46:29

invest become more useful. Hopefully,

00:46:32

we don't no one wants

00:46:34

to go to is dies

00:46:35

unless absolutely necessary checking on

00:46:38

the status of Braveheart and

00:46:40

you don't do it likely

00:46:41

so but you need that

00:46:43

protection and that goes to

00:46:45

the planning of any PRI

00:46:47

project, right? The beginning so

00:46:49

I think of my focus

00:46:51

as you can see is

00:46:52

more on dispute avoidance, and

00:46:54

I think if dispute avoidance

00:46:56

is done. Well, then these

00:46:58

faces and Prospects of Bri

00:47:00

weather in or not in

00:47:02

international arbitration will be very

00:47:04

good. Thank you. Get the

00:47:10

results. Thank you for your

00:47:11

very valuable and important speech.

00:47:14

She have talked about this

00:47:17

huge information and knowledge in

00:47:20

the morning. I've been fishing

00:47:22

areas are the most interested

00:47:24

in since its reports. The

00:47:28

first one is she for

00:47:30

Chris and emphasized the clothes

00:47:33

importance to the b&i initiatives,

00:47:38

especially on the infrastructure and

00:47:41

the other very cute cute

00:47:44

texts and calls very important.

00:47:53

I mean the application without

00:47:56

mostly depend on your own

00:47:59

the contract to close. I

00:48:01

think it is very important

00:48:03

and the 2nd for she

00:48:06

focus on the seats of

00:48:09

application or the choice of

00:48:12

the efficient body important, especially

00:48:19

for the Chinese Enterprises is

00:48:21

the John's in the very

00:48:27

huge infrastructure building and a

00:48:30

very long time to project

00:48:32

to Union be on the

00:48:33

I-80. So I've been treason

00:48:40

baldi's toys is very sensitive

00:48:45

or Chinese Enterprises. I suggest

00:48:48  
the Beijing International arbitration Center

00:48:52  
is the best one for

00:48:54  
your choice. And that the

00:48:57  
most interesting the pawn ticket

00:49:01  
says the focus on that

00:49:03  
medication. I think it's the

00:49:05  
Chinese preferred stale Peeps and

00:49:11  
made a decision. We have

00:49:13  
a very good very old

00:49:15  
tradition or the imitation a

00:49:20  
site that Malaysians importance to

00:49:22  
handle that the legal disputes

00:49:26  
in the b&i the new

00:49:33

items and the new topics

00:49:36

v e r b x

00:49:39

pure determination DAV and the

00:49:43

b i t s use

00:49:45

in the you watch them

00:49:46

in the dispute settlement. very

00:49:50

huge Lodge information and knowledge

00:49:55

Teresa You can transfer to

00:50:04

the the last two speakers

00:50:06

in the door panels. patreon

00:50:11

Channel TV is international arbitrator

00:50:14

and the legal specialist II

00:50:16

you are a f Goes

00:50:21

to you. Mr. Let me

00:50:24

just going to begin by

00:50:26

expressing expressing my appreciation to

00:50:29

wow with Antonio Rivas Ian

00:50:32

and of course biac for

00:50:35

the invitation, but only to

00:50:38

share some remarks with you,

00:50:39

but to share this panel

00:50:41

with my colleagues meet such

00:50:46

interesting presentation cell and honor

00:50:49

to be here along with

00:50:51

you. So I want to

00:50:55

focus on investor-state dispute resolution

00:50:59

in the context of Bri

00:51:01

China is the fourth largest

00:51:05

source of foreign direct investment.

00:51:09

This means outward the flows

00:51:13

of Chinese investment to the

00:51:15

rest of the world in

00:51:17

the second largest recipient of

00:51:19

foreign direct investment. And China's

00:51:24

role as one of the

00:51:27

main sources of FDI in

00:51:30

the world has increased and

00:51:32

it's it is bound to

00:51:34

continue to increase thanks to

00:51:36

its belt and Road initiative.

00:51:41

Bri projects have Murphy the

00:51:44

initially said the R-value multi-party

00:51:49

they always involve the states

00:51:53

does the interests of states.

00:51:57

the involved very complex projects

00:52:02

and transactions Ask infrastructure projects

00:52:07

are always are but as

00:52:09

Teresa was saying there are

00:52:13

other types of projects that

00:52:16

go along with the main

00:52:18

infrastructure projects such as building

00:52:21

schools and hospitals power plants

00:52:23

that support the main infrastructure

00:52:27

projects self. They are highly

00:52:30

complex Murphy refer to the

00:52:33

multiple parties involved contractors subcontractors

00:52:36

suppliers of goods and services

00:52:39

lenders. I see Nancy Hurst

00:52:42

insurers the also involve multi

00:52:46

multiple stakeholders beyond the parties

00:52:52

that are involved in these

00:52:53

projects in transactions. I referred

00:52:56

to already two to the

00:52:58

states. So certainly the Chinese

00:53:02

government not only because It's

00:53:05

initiative that work. I just

00:53:07

got in here but also

00:53:09

because I stayed owned Enterprises

00:53:12

play an important role in

00:53:14

developing these projects both as

00:53:17

contractors as developers, but also

00:53:20

providing Financial finance financing the

00:53:25

project themselves. So it has

00:53:28

that other interests as well

00:53:31

as opposed to many other

00:53:33

government. And there are also

00:53:38

other stakeholders that we in

00:53:41

in discussing investor-state dispute resolution.

00:53:44

We often tend to overlook

00:53:46

for the local communities where

00:53:50

the projects are going to

00:53:51

be built the local communities

00:53:54

where Railways or roads are

00:53:57

going to pass the people

00:54:04

that have environmental concerns. So

00:54:07

not only the the the

00:54:08

local communities but also a

00:54:11

non-governmental organizations that that are

00:54:15

interested in preserving the environment

00:54:18

self again, there. There are

00:54:20

all their these other stakeholders

00:54:24

that are involved in this

00:54:26

huge project. And Murphy also

00:54:31

touched upon know the the

00:54:34

cultural political and diverse cities

00:54:40

in in terms of where

00:54:42

these projects are taking place.

00:54:45

Just the sheer number of

00:54:49

countries around the world that

00:54:51

are now either signed up

00:54:54

or signing onto the belt

00:54:57

and Road initiative. So complex

00:55:06

environment at Large. end given

00:55:16

the sheer breadth of the

00:55:19

project is Murphy again. And

00:55:21

now then I think you

00:55:22

touched upon as well it

00:55:25

is it disputes are bound

00:55:28

to arise the are arising

00:55:30

and we need to think

00:55:33

about how to best resolve.

00:55:36

Hopefully S3's. I was saying

00:55:38

how to best avoid disputes

00:55:40

all together, but never the

00:55:41

last disputes will arise In

00:55:46

the end I will have

00:55:49

to figure out how best

00:55:51

to resolve them. This context

00:55:54

China has an extensive network

00:55:56

of International Investment agreements. I'm

00:56:03

not mistaken. It has around

00:56:04

\$145 investment agreement that the

00:56:10

majority of which provide for

00:56:13

investor-state arbitration as the means

00:56:15

of dispute resolution the areas

00:56:20

are there in the first

00:56:22

generation of agreements that do

00:56:24

not provide for is d

00:56:26

s r investor-state dispute settlement

00:56:27

at all. But the second

00:56:30

wave of investment agreements that

00:56:34

provides for traditional or what

00:56:37

I would say traditional is

00:56:38

dies in the more recent

00:56:40

wave of more recent generation

00:56:44

3rd. Gen. Investment agreement where

00:56:47

China has taken somebody more

00:56:51

cautious look at investor-state dispute

00:56:55

resolution and has begun to

00:56:58

include some of the the

00:57:02

the advances that are being

00:57:08

discussed in it. National Forum,

00:57:13

but what's important to note

00:57:16

is that against the somewhat

00:57:18

still recent backlash against investor-state

00:57:21

dispute resolution China has continued

00:57:24

to support inclusion of ideas

00:57:26

Diaz in in its treaties

00:57:28

China at the Anza 12

00:57:32

working with 3, which is

00:57:34

the the the group AD

00:57:37

on Super Bowl that is

00:57:38

looking at is DS reform

00:57:42

at-large. China has expressed support

00:57:45

for is DS. In China

00:57:50

more recently for instance has

00:57:54

requested. She would see to

00:57:58

the comprehensive and Progressive. The

00:58:04

cptpp the comprehensive and Progressive

00:58:07

trance Pacific partnership, which contains

00:58:11

includes is dies. And that

00:58:16

again is in line with

00:58:19

China's positive view of investor-state

00:58:22

dispute resolution. Now China has

00:58:26

been a Critic of the

00:58:28

traditional is what while its

00:58:30

support is Diaz. It has

00:58:32

also been a Critic it

00:58:34

has also joined other countries

00:58:36

and its criticism of the

00:58:37

traditional is the China for

00:58:43

instance has joined other countries

00:58:48

are perhaps importantly in the

00:58:52

lack of corrective mechanisms in

00:58:55

is dies in the lack

00:58:57

of stability and predictability of

00:58:59

the system. So it has

00:59:03

I wouldn't say put forward

00:59:05

but it has its support

00:59:08

an idea that is by

00:59:10

no means new but the

00:59:12

idea of establishing an appellate

00:59:15

mechanism similar to that of

00:59:17

the WTO building and appellate

00:59:21

mechanism into the resolutions system.

00:59:31

It is still you know

00:59:33

difficult idea to to implement.

00:59:37

But what it means is

00:59:38

that China is Justin don't

00:59:41

only have a positive view

00:59:42

in terms of is. But

00:59:44

is also it is proposing

00:59:50

ideas as to how it

00:59:52

can evolve in the somewhat

00:59:55

near future in terms of

01:00:00

what the prospects might be

01:00:04

is China, of course as

01:00:07

I've discussed in my colleagues

01:00:09

before me have discussed plays

01:00:12

an important role in the

01:00:13

context of a SDS. And

01:00:17

especially now that is DSE

01:00:20

is changing. It is evolving.

01:00:22

It is subject to an

01:00:24

all-important multilateral reform. It can

01:00:31

continue to play an important

01:00:32

role in that China has

01:00:36

a significant interesting in my

01:00:38

view in is d i

01:00:40

s d s not only

01:00:44

because it is the source

01:00:45

of investment flows generally, but

01:00:49

because the Ries all about

01:00:52

outward investment flows again, because

01:00:58

of the importance of participation

01:01:01

of Chinese state-owned Enterprises in

01:01:03

the developing and financing of

01:01:05

these projects China should have

01:01:08

an important should continue to

01:01:12

play an important role in

01:01:15

the how is DS evolved

01:01:18

but also because again in

01:01:21

the backlash against investor-state dispute

01:01:24

resolution if we take a

01:01:28

look at the map and

01:01:30

where the The economic belt

01:01:35

and the maritime Silk Road

01:01:37

will go through and as

01:01:39

it has been expanding along

01:01:42

the many countries chiam Chinese

01:01:46

investment is flowing into countries

01:01:50

in Africa and Latin America

01:01:51

that have been at the

01:01:54

Forefront of this backlash against

01:01:57

isps. So it should be

01:02:05

not only of interest to

01:02:08

China but if interests to

01:02:10

the rest of the world

01:02:11

know, what is China's position

01:02:14

how it will evolve as

01:02:17

a BRI continues as Bri

01:02:22

progresses and the last subject

01:02:27

that I would like to

01:02:28

touch upon is Teresa made

01:02:32

emphasis on mediation. And she

01:02:35

made a Sazon mediation in

01:02:39

the context of dispute avoidance

01:02:41

and mr. Lu was as

01:02:43

well. He said, you know,

01:02:44

this is China's preferred method

01:02:46

of dispute resolution, but I

01:02:49

would like to give it

01:02:50

a little bit of a

01:02:51

spin because ultimately we talked

01:02:55

about arbitration throughout the morning

01:02:59

and two of my colleagues

01:03:02

before me talk to extensively

01:03:04

about arbitration. But you know,

01:03:07

I've always been a proponent

01:03:09

of invest their state dispute

01:03:12

resolution and specifically of investment

01:03:15

arbitration But ultimately I think

01:03:18

it is a losing proposition.

01:03:21

in my view a successful

01:03:25

investment is worth so much

01:03:30

more than the most successful

01:03:32

arbitration Ward. So by the

01:03:36

time that the parties are

01:03:37

involved in arbitration, if the

01:03:40

investor wins, even if an

01:03:43

important award, I think it

01:03:45

has lost a good business

01:03:47

proposition a good business deal.

01:03:51

And in contrast to the

01:03:52

state if it's State wins

01:03:54

the award. Well what that

01:03:58

means is that it doesn't

01:03:59

have to pay damages but

01:04:01

more importantly what it means

01:04:03

is that most probably it

01:04:05  
has lost the investment. So

01:04:08  
ultimately when we are in

01:04:10  
an arbitration it however, it

01:04:15  
turns out it is a

01:04:16  
losing proposition and in this

01:04:19  
contacts mediation can be an

01:04:22  
alternative not only for disputable

01:04:25  
avoidance, hopefully, but in order

01:04:28  
to It'll Foster successful Investments

01:04:34  
where problems have arised and

01:04:36  
again is my colleagues have

01:04:38  
said and I are you

01:04:39  
refer to it in my

01:04:40

initial remarks disputes are bound

01:04:45

to arise that. There is

01:04:46

there's no question that the

01:04:48

number of transactions the number

01:04:50

of project the complexity. The

01:04:52

number of parties involved in

01:04:54

disputes will arise but even

01:04:56

where they have arised if

01:04:58

mediation as China's preferred method

01:05:01

of dispute resolution, if they

01:05:03

if it can be turned

01:05:05

into a means of making

01:05:07

Investments successful or making them

01:05:11

successful again, I think that

01:05:17  
will be that will go

01:05:19  
a long way in my

01:05:21  
experience now of close to

01:05:24  
twenty-five years in fds. I

01:05:28  
have not seen the mediation

01:05:33  
Almost anywhere. There are a

01:05:36  
few conciliation cases in the

01:05:39  
context of exceed a few

01:05:41  
others out there, but it

01:05:42  
has not been used as

01:05:44  
a tool and for many

01:05:46  
years. I was Mexico's lead

01:05:48  
counsel in these types of

01:05:51

arbitration and many of them

01:05:53

could have been resolved to

01:05:56

the benefit of both parties

01:05:58

to the benefit of Mexico

01:05:59

is the state and to

01:06:01

the benefit of the investor.

01:06:02

If a solution could have

01:06:05

been found that would turn

01:06:06

what was a dispute into

01:06:08

a successful investment and I

01:06:10

think China just because of

01:06:12

its tradition of its culture

01:06:15

and as an SMS with

01:06:16

you said it's preferred means

01:06:19

of dispute resolution through mediation.

01:06:21

It could play a very

01:06:24

important role in the context

01:06:27

of Bri as we see,

01:06:29

you know, the prospects of

01:06:31

isds General ask Bri Progressive

01:06:39

so tired my remarks. Thank

01:06:41

you. Thank you, and thank

01:06:48

you for your very important

01:06:50

and interesting speech speech a

01:06:55

talk about a lot of

01:06:58

complicated elements in piano. Initiating

01:07:04

likes you are mental concern

01:07:07  
labor rights and cultural difference

01:07:10  
and some other loyalty Prince

01:07:15  
other seems the most important

01:07:19  
for me is you talk

01:07:21  
about it exceeds system you

01:07:27  
sat timer is to support

01:07:31  
her fault. And is DS

01:07:36  
systems reform. We have a

01:07:39  
deliver our agenda and I'll

01:07:43  
ride wise United Nations treat

01:07:48  
and the law committee. We

01:07:51  
support we also supports Buttes

01:07:54  
a corrective system. Like you

01:07:59

have started like the play

01:08:05

WAV has been paralyzed or

01:08:09

American. I always supports we

01:08:18

can build a new correct

01:08:21

to correct the systems in

01:08:24

SPS the you talk about

01:08:27

is it cptpp, you know,

01:08:30

China have to deliver our

01:08:35

application going to the cptpp.

01:08:38

We should eat the virus

01:08:42

very important. Trade and you

01:08:48

must commend agreement in recent

01:08:51

years have a new high

01:08:53

live old sweet and the

01:08:57

you want some loose end

01:08:58

the dispute settlement lose in

01:09:00

cptpp. We have a lot

01:09:04

for a long time and

01:09:06

we wish we have a

01:09:09

good end to John in

01:09:11

the CPT BP and the

01:09:13

last two parts of your

01:09:15

speech you referred the importance

01:09:18

of the Malaysian you had

01:09:21

to import important to the

01:09:24

mediation in especially in disputes

01:09:29

you I'll give it to

01:09:35  
you in this point. And

01:09:38  
how's that the time leave

01:09:40  
a lot of and we

01:09:45  
have to close our a

01:09:48  
speaker speech and the next

01:09:50  
one is the Q on

01:09:51  
the 8th time. If you

01:09:54  
have a question, you can

01:09:56  
raise your hands. No friend.

01:10:03  
No, no, no problem coming

01:10:14  
from but Hugo said let

01:10:16  
me again share another story

01:10:18  
investment arbitration that went on

01:10:23  
for about 9 to 10

01:10:25  
years except does host stage

01:10:29  
1 And then about a

01:10:32  
few months after that the

01:10:35  
investor started to negotiate with

01:10:38  
the whole state to get

01:10:39  
to continue with the project

01:10:41  
in probably another terms now

01:10:45  
that to me is a

01:10:46  
classic case that hat they

01:10:49  
used mediation right at the

01:10:51  
stuff. They would have renegotiated

01:10:53  
a deal that will suit

01:10:56

you may not like it

01:10:58

the whole state should not

01:10:59

throw things are the investors

01:11:01

should not one more before

01:11:02

they could have resolved that

01:11:04

instead of having ten years

01:11:06

and arbitration and now going

01:11:07

back and read negotiate another

01:11:09

deal. So, I mean that

01:11:10

I think you know, when

01:11:12

you when you mentioned it's

01:11:13

not used immediately reminded me

01:11:16

of that particular story. My

01:11:28

name is Antonio and I

01:11:33  
have two questions for you.

01:11:35  
The first question is in

01:11:37  
the context of a uncitral

01:11:39  
the anthropocene proceedings and negotiations

01:11:42  
to the extent that you

01:11:45  
have Previa information in terms

01:11:48  
of the Chinese position concerning

01:11:51  
the pallets facility. It would

01:11:55  
be very interesting to to

01:11:56  
learn its logic versus for

01:12:02  
instance the logic of of

01:12:03  
other countries that may be

01:12:05  
in favor of the multilateral

01:12:08

investment court or versus the

01:12:12

logic of some states that

01:12:14

at me Abby against both

01:12:18

of the facility and as

01:12:20

well as the multilateral investment

01:12:22

court, so that's that's one

01:12:24

question because there's there's a

01:12:25

lot of Interesting State perspectives

01:12:29

in terms of investment arbitration

01:12:31

and public international law with

01:12:33

respect to those three positions.

01:12:34

No, no, no reform on

01:12:38

that matter the acidity and

01:12:42

the multilateral investment. So that's

01:12:44

question. Number one question. Number

01:12:46

two is on mediation and

01:12:48

rest and that culturally on

01:12:50

us as we we we

01:12:51

saw this morning with culturally

01:12:58

China has a almost a

01:13:02

tradition of mediation that goes

01:13:05

goes very very long for

01:13:09

a long time. And I

01:13:11

understand that that's mediation forms

01:13:14

are almost the intrinsic part

01:13:17

of of Chinese legal tradition.

01:13:20

I could understand how for

01:13:24

instance when a foreign investor

01:13:28

would be suing the Chinese

01:13:30

states that mediation would be

01:13:32

an option because it's part

01:13:34

of the Chinese tradition, but

01:13:36

the question is how to

01:13:39

Modify the ways and means

01:13:47

that older legal Ultras have

01:13:50

as host states were the

01:13:53

maybe somehow more afraid of

01:13:56

mediation and investors to arbitration.

01:13:59

And what what happens in

01:14:00

other countries is that they

01:14:03

may be willingness by some

01:14:07

logic to be willing to

01:14:10

do a amicable Arrangement But

01:14:16

ultimately the public officials are

01:14:19

very much afraid of agreeing

01:14:22

to a mediation or an

01:14:25

amicable agreement of the Coach

01:14:27

O. If the legal culture

01:14:31

is not there. I have

01:14:32

a few examples of of

01:14:34

states that have been mature

01:14:35

enough to get to an

01:14:37

amicable agreement one case in

01:14:40

which I have another former

01:14:42

Law Firm that I was

01:14:43

in I was able to

01:14:44

represent the investors against Canada

01:14:49

and in that case Canada

01:14:51

agreed to to settle because

01:14:53

the measure was actually called

01:14:56

the expropriation decree. So it

01:14:58

was quite obvious that it

01:14:59

was his probation. And and

01:15:01

that was it but most

01:15:04

of the countries are very

01:15:05

reluctant to do mediation or

01:15:07

or or get to a

01:15:10  
settlement. So what would be

01:15:12  
from a Chinese perspective? What

01:15:15  
would be your your advice

01:15:18  
in terms of how to

01:15:20  
somehow influence the legal culture

01:15:24  
of other other states that

01:15:25  
may be reluctant to get

01:15:27  
to an amicable settlement? Because

01:15:29  
of the fears of of

01:15:30  
of being personally responsible for

01:15:35  
for those kind of amicable

01:15:37  
settlement. Thank you. I'll answer.

01:15:42  
I'll try and answer the

01:15:44

second the first of course,

01:15:46

I am not able to

01:15:47

comment try and answer the

01:15:50

second in this way. If

01:15:51

we're looking at Bri projects

01:15:53

African States Asian States main

01:15:56

be at least for now.

01:15:57

Of course, we we could

01:15:58

defer these states actually have

01:16:01

a very similar culture of

01:16:04

conciliate trying to sexual rather

01:16:08

than to put them could

01:16:10

fight it out in the

01:16:11

cold. So let's let you

01:16:12

just type of nature. I

01:16:14

was quite surprised until I

01:16:15

speak to some of the

01:16:16

African friend because we do

01:16:18

training for for for government

01:16:21

officials in nation African countries.

01:16:23

Do we have that is

01:16:24

some in my capacity as

01:16:26

station Academy of international laws.

01:16:28

So when I realized that

01:16:30

they were very conciliatory that

01:16:33

it should have reinforces my

01:16:34

belief that it can be

01:16:36  
something that can be looked

01:16:37  
at. So I think the

01:16:39  
culture is not the concern.

01:16:41  
Mentioned about government officials would

01:16:44  
be afraid to settle because

01:16:46  
of personal accountability Etc that

01:16:49  
I think is not illegal

01:16:50  
culture that I think is

01:16:51  
universal. I think everybody has

01:16:54  
that concern do every country

01:16:56  
in the world be that

01:16:57  
is what one would call

01:16:58  
the very litigious States all

01:17:00

the sort of more conciliatory

01:17:02

steak. So that concern I

01:17:05

think can only be overcome

01:17:06

through training. Training in the

01:17:09

sense of letting people appreciate

01:17:11

how it works knowing the

01:17:13

benefits and actually devising a

01:17:16

system within a government to

01:17:19

ensure that a decision made

01:17:21

in the mediation buy a

01:17:22

current government would not be

01:17:24

used by a laser government

01:17:26

to go an attack on

01:17:27

the officials to deal with

01:17:29

it so something so I

01:17:31

think this is my thinking

01:17:33

that is divorced from the

01:17:35

overall political changes in government

01:17:38

election and all the rest

01:17:41

of it to ensure the

01:17:42

Integrity of that process has

01:17:44

preserved the ancient Academy of

01:17:47

international law have been providing

01:17:48

training on investment mediation since

01:17:51

2018. The first few were

01:17:54

actually with them exit and

01:17:56

it's very useful. I think

01:17:58

people learned a lot from

01:18:00

that and we intend to

01:18:01

continue to do that and

01:18:03

very supportive of the inceptra

01:18:04

working group 3 the mediation

01:18:07

guide Actresses that came out

01:18:10

last July I think yes,

01:18:13

so I think that's that's

01:18:15

I think that's the that

01:18:17

it's not easy. I think

01:18:18

the target should be explaining

01:18:21

how governments should be able

01:18:23

to accept it investors generally

01:18:25

a more amenable to mediation,

01:18:29

but I understand if we

01:18:30

fully understand the government may

01:18:33

be less willing and that

01:18:34

I think is a lot

01:18:35

of people doing a lot

01:18:37

of work trying to do

01:18:40

capacity building as well as

01:18:41

if icing systems. Yeah, I

01:18:45

want to see Boron. You're

01:18:47

the second question. You know

01:18:50

mediation is the lower-cost lower

01:18:53

cost and the lower practice

01:18:55

is especially on the Eco

01:18:58

professional station convention. Now if

01:19:10

they can push agreement document

01:19:15

be enforced in some countries,

01:19:21

especially on a size including

01:19:29

all mostly developing country OST.

01:19:35

I'll be teaching practices my

01:19:39

colleagues in very many. International

01:19:48

arbitration area it says small

01:19:51

circle. very small circle almost

01:19:56

from the Bastion count So

01:19:59

I agree with what the

01:20:02

Teresa said in expansion in

01:20:05

Asia Africa, especially 20 country.

01:20:12

We prefer to choose the

01:20:15

Malaysian to handle these disputes

01:20:18

and it is Singapore convention

01:20:26

can push these efforts? What's

01:20:31

the question for you briefly

01:20:35

touch upon? The second question

01:20:37

is well and just the

01:20:38

treason has given us so

01:20:40

many stories in the let

01:20:43

me get just share one

01:20:45

with you is and I

01:20:47

think it goes to your

01:20:48

question as to what does

01:20:50

settlement mean. And do you

01:20:54

know where the investor? Once

01:20:57

money a settlement in terms

01:21:00

of monetary compensation. I don't

01:21:04

think that mediation is going

01:21:07

to help a lot and

01:21:08

I am at least in

01:21:09

my experience investors tend to

01:21:11

look at it as it

01:21:16

only adds to the time

01:21:17

and cost if mediation goes

01:21:20

nowhere, then you're stuck with

01:21:23

arbitration and it only asked

01:21:25

time and cost but I

01:21:27

was involved in one case

01:21:29

where actually the government proposed

01:21:32

settlement option that could have

01:21:36

been well mediated. Are there

01:21:40

involved in rescuing the the

01:21:43

investment? So we were in

01:21:45

the middle in the middle

01:21:46

of arbitration. They was the

01:21:50

company that was involved was

01:21:52

bought by a larger company

01:21:54

in you know that Lee

01:21:56

said Let's discuss a settlement

01:21:59

long story short. They said,

01:22:01

you know, we're still waiting

01:22:03

Mexico for 60 million dollars,

01:22:05

but will settle for 20

01:22:06

million. And what we said

01:22:09

what I told my boss

01:22:11

a minister at that time

01:22:12

I said like it's very

01:22:13

difficult for the government just

01:22:14

to hand out a check

01:22:15

and say okay. We're saving

01:22:17

40 million dollars it just

01:22:18

handing a check 20 million

01:22:20

settlement and it brings all

01:22:23

the problems that it was

01:22:24

referring to the ability to

01:22:27

sell one government instead of

01:22:33

handing the investor a check

01:22:35

that they will go and

01:22:37

then invest elsewhere. Why don't

01:22:41

we get out Supply 20

01:22:44

million dollars worth of this

01:22:47

was a waste concession. So

01:22:49

waste dump trucks or a

01:22:53

landfill. So it's easier for

01:22:55

the the state government or

01:22:58

the provincial government to say

01:23:00

they will this will go

01:23:02

not to the investor but

01:23:03

to the concession and this

01:23:05

will be the landfill and

01:23:07

it's worth however much of

01:23:09

an fill of that size

01:23:10

is worth and so many

01:23:12

dump trucks were or waste

01:23:13

collection trucks. So, you know,

01:23:16

you are. I don't know

01:23:17

where they're 20 or 15

01:23:19

or however much but instead

01:23:20

of handing over to check

01:23:21

the government invests in creates

01:23:24

an interest in to the

01:23:26

investment project. And the investor

01:23:29

you it you can also

01:23:29

say you can't will chip

01:23:32

in 20 million, but you

01:23:33

have to chip in any

01:23:34

more million and you know

01:23:36

what you will make this

01:23:38

into a larger concession. So

01:23:41

I thought that was an

01:23:42

interesting idea. We talked to

01:23:43

the municipal government. They said

01:23:45

we could work something out.

01:23:47

We talked to you the

01:23:49

state government to be in

01:23:52

Mexico provinces and they said

01:23:55

I think we could make

01:23:56

it work and we could

01:23:57

find fun send the federal

01:23:59

government was involved ultimately the

01:24:02

investor because they had their

01:24:06

mind was set in arbitration.

01:24:08

They had thrown in the

01:24:09

towel as far as the

01:24:11

investment was concerned that they

01:24:13

were not interested. They ended

01:24:16

up losing the case Mexico

01:24:18

ended up losing the investment

01:24:20

in like I said, it

01:24:21

was ultimately an investment proposition,

01:24:23

but I think it takes

01:24:24

a different mindset. As to

01:24:27

how you looking at, you

01:24:30

know, what is possible? Not

01:24:32

not all Disputes can be

01:24:36

settled in this manner or

01:24:38

can be mediated. Now a

01:24:40

mediator can take a look

01:24:42

at your the parties and

01:24:44

say, you know, this is

01:24:45

there will be no check

01:24:49

but that's turn this into

01:24:50

a successful business. That's interesting

01:24:55

for the state. That's interesting

01:24:57

for the investor. And I

01:24:59

think mediation can go a

01:25:00

long way and that's respect

01:25:02

now just briefly on your

01:25:04

second question. I'm not as

01:25:07

qualified as my Collies. Yep,

01:25:11

that's the Chinese position. But

01:25:14

my my understanding is China

01:25:18

still supports arbitration and still

01:25:21  
supports investors participating Princeton in

01:25:24  
appointing arbitrators. And that is

01:25:28  
why it is thought of

01:25:29  
a of an appellate mechanism

01:25:32  
s a s t r

01:25:33  
a supposed to an investment

01:25:34  
know any batsman cord my

01:25:38  
own view is that it

01:25:39  
will not happen. I think

01:25:42  
the prospects of an appellate

01:25:44  
mechanism as complicated as that

01:25:47  
that maybe our it has

01:25:51  
a better Prospect than an

01:25:53

investment court and investment poor

01:25:55

can only be successful if

01:25:57

it is truly multilateral and

01:26:00

even you know, Chinese had

01:26:02

to have a very particular

01:26:03

view of the long-term long-term

01:26:05

in Chinese currency is very

01:26:08

very very long-term. Batman term

01:26:11

investment or it will happen

01:26:14

in the very long-term in

01:26:17

Chinese, you know term so

01:26:19

I don't think any of

01:26:21

us will be around here

01:26:22

to see it happen. But

01:26:25

an appellate mechanism it it

01:26:27

might and there is legitimate

01:26:30

concern about the uniformity of

01:26:34

decisions about predictability about correcting

01:26:41

certain mistakes that I think

01:26:45

it's face is a better

01:26:46

Prospect. Quickly with flat on

01:26:52

the example given by Hugo

01:26:55

on mediation. I think we're

01:26:58

official thing individuals of Katherines

01:27:00

a movie Sometimes in resolving

01:27:03

a dispute is actually an

01:27:05

easier option than a fat

01:27:06

lazy option to them to

01:27:08

go to arbitration. And in

01:27:11

the contest of assessing the

01:27:13

prospect of mediation, I think

01:27:15

of his defining the people

01:27:18

and the group with the

01:27:19

right of Rarity and and

01:27:20

with the right mindset to

01:27:21

make the decisions are always

01:27:22

challenging but having a good

01:27:25

understanding of the government system

01:27:27

and the internal procedures will

01:27:29

almost give you a good

01:27:30

sense as to whether is

01:27:32

an appropriate cage for resolving

01:27:35

it via mediation. Elizabeth I

01:27:44

think just on mediation. The

01:27:46

other thing that to their

01:27:47

mind is I think that

01:27:48

there needs to be work

01:27:49

to be done internally within

01:27:50

the government to instill in

01:27:53

positions where people important decisions

01:27:57

can be made to encourage

01:27:58

the adoption of mediation people

01:28:00

with the expertise and experience

01:28:01

to do the advocacy internally

01:28:04  
within the government in addition

01:28:05  
to the color external training

01:28:07  
that Teresa has mentioned. I

01:28:08  
think, you know what needs

01:28:10  
to be done in parallel

01:28:12  
in order to promote mediation

01:28:14  
as an alternative to arbitration,

01:28:16  
Mississippi restitution. Time is flying

01:28:21  
fast. It's a time to

01:28:25  
close all over a panel

01:28:27  
discussion. Thank you all day

01:28:29  
and all your very valuable.

01:28:36  
Speech for the audience and



01:28:46

the oil time. Thank you.