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THE REFORM AND DEVELOPMENT OF THE INVESTOR-STATE DISPUTE SETTLEMENT MECHANISM

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Abstract: Investment arbitration, which is the dominant method of investment dispute settlement, is being questioned and criticized. The international community is actively exploring the improvement and innovation of the investment dispute settlement mechanism. On the one hand, it is reflected in the judicialization of rigid settlement methods of investment disputes, and on the other hand, it is reflected in the standardization of flexible settlement methods of investment disputes. The diversified development of the investment dispute settlement mechanism is in line with the open and inclusive spirit of the "Belt and Road" initiative. In view of the difficulties in the short term for countries along the “Belt and Road” to discuss and build specialized investment dispute settlement institutions, China should respond to the innovation and development of the international investment dispute mechanism while providing Chinese solutions that meet the needs of the “Belt and Road” construction. Brazil's investment dispute prevention mechanism, establish and improve the investment dispute prevention center; try to establish an international investment court based on the International Commercial Court of the Supreme People's Court; refer to the experience of ICSID under the World Bank, and promote the participation of the Asian Infrastructure Investment Bank in its financing infrastructure Settlement of project investment disputes.
Keywords: Investment dispute settlement mechanism; "One Belt, One Road" initiative; China's choice

1 RECENT DEVELOPMENTS IN INVESTOR-STATE DISPUTES

At present, the global investment field is facing multiple challenges, and the investment environment is uncertain, especially protectionism and isolationism. This has further exacerbated the tension between the host country and investors, and investment disputes have increased year by year. In recent years, investor-state disputes (ISDS) have shown the following characteristics:

1.1 The Number of Investment Disputes is Stable and High

According to data from the United Nations Conference on Trade and Development (UNCTAD), investment treaty disputes have maintained a high growth rate of more than 60 new cases per year in the past three years. The International Center for the Settlement of Investment Disputes (ICSID) registered 56 cases in 2018 and had accepted a total of 706 investment disputes [1] by the end of 2018, making it the most important investment dispute settlement institution. The high growth in the number of international investment disputes has made the operation and effect of the international investment dispute settlement mechanism more and more the focus of international capital participants and international organizations.

1.2 Significant Changes in the Roles of Developed Countries

In investor-state dispute cases, the investor's country that initiates investment arbitration for a long time is often a developed country. Since 1987, investors from the United States, the Netherlands, the United Kingdom, Germany, and Canada have filed a total of 436 ISDS cases, and the number of ISDS cases filed by investors from these five countries has accounted for 60% of the total. The host countries sued are mainly developing countries. Argentina, Venezuela, Mexico, Ecuador and other American developing countries were sued in a total of 154 investment arbitration cases, accounting for about 20% of all ISDS cases. However, in recent years, developed countries have also begun to frequently appear in the ranks of the sued host countries. For example, the number of sued cases in Spain and Canada is 43 and 27 respectively. [2] This reflects that the post-war international investment order has long been dominated by developed countries as capital exporting countries and the relationship is changing. Some developed countries are no longer purely capital exporting countries, but also capital importing countries. [3] Foreign investment regulatory measures in developed countries are increasingly being challenged by foreign investors. Frequent lawsuits and losses in the practice of investment dispute settlement have aroused dissatisfaction and calls for reform of the investment dispute settlement mechanism in developed countries such as the European Union and Australia. [4] The United States and Canada are also increasingly paying attention to the risks inherent in investment arbitration, and are trying to reduce the risks by "returning" to their own jurisdiction. [5]

1.3 Industries with High Incidence of Disputes are Relatively Concentrated

From the distribution of ISDS industries in recent years, industries such as power supply, water supply and gas supply, construction, finance and insurance, transportation, and information are high-incidence industries of IS-DS. For

example, the number of ISDS in the oil, gas, and mining industries accounted for 24% of all ICSID cases, and electricity and other energy disputes accounted for 17%. [6] These industries are related to public demand or economic security, and the intensity and depth of government participation in supervision are more prominent than other industries.

The continuous increase in the number of investment disputes has put forward higher requirements for the fair and efficient handling of disputes. The relief methods provided by the existing investment dispute settlement mechanism mainly include negotiation, mediation, international investment arbitration, host country administrative or judicial relief, etc. According to the strength of the binding force of the dispute settlement results on the parties, investment arbitration and host country relief can be classified as rigid solutions, while negotiation and mediation can be classified as flexible solutions. The rigid solution method has the characteristics of public power relief or quasi-public power relief due to the intervention of public power. The procedural requirements for dispute resolution are relatively strict, the judgment of right and wrong and responsibility assumption are clear and clear, and the result of the ruling is guaranteed by the national coercive force, which is rigid to the parties to the dispute. binding. The folk and unofficial nature of the flexible solution is even more tinged with private relief. For example, negotiation and mediation, with flexible methods and informal procedures, is more efficient and does not damage justice, but the binding force on both parties to the dispute is relatively flexible.

Rigid and flexible dispute settlement methods have different characteristics and can coexist in the same investment dispute settlement. Usually, the earliest procedure for dispute settlement is the strength-based negotiation method, the rule-based adversarial arbitration is the absolute dominant method for resolving investment disputes, and the interest-based mediation method serves as a supplement to the dispute settlement mechanism. [7] Regardless of the differences in various dispute settlement methods, the goal is to restore the balance between the interests of investors and the state. The practice of international investment arbitration shows that it is no longer the best way to resolve disputes between investors and states through investment arbitration. [8] The international community has started to improve the investment dispute settlement mechanism as a whole. With the advancement of different reform plans, the traditional advantages of investment arbitration in resolving investment disputes will be weakened, and the investment dispute settlement mechanism is transforming and developing in a more feasible and multi-dimensional direction. On the one hand, the rigid settlement method that dominates the settlement of investment disputes puts more emphasis on the role of the state, and the investor, as one of the parties, has less influence on the dispute settlement process. On the other hand, flexible solutions have received unprecedented attention, and more standardized process control has greatly improved the efficacy of flexible solutions.

2 THE JUDICIALIZATION TREND OF THE RIGID SETTLEMENT OF INVESTMENT DISPUTES

2.1 The Host Country's Relief Tends to be Compulsory

Under the support of Calvoism theory, host country relief is generally accepted as one of the main methods of dispute settlement in investment agreements. Most of the investment agreements allow investors to freely choose to seek administrative or judicial means in the host country, or to international arbitration institutions.

Arbitration is used to resolve investment disputes. The domestic mechanism of host country relief and the international mechanism of international arbitration have become the two wings of the investment dispute settlement mechanism.

In the early days of international investment law, there was no prioritization of investment arbitration and host country relief, and the Convention on the Settlement of Investment Disputes between States and Other States (hereinafter referred to as the ICSID Convention) Article 26 assigns to the contracting parties the power to decide whether investors should exhaust local remedies before initiating international arbitration. In practice, most investment treaties do not require that local administrative or judicial remedies must be exhausted before initiating international investment arbitration proceedings. A few investment treaties have varying degrees of applicable requirements for local remedies, such as the 1978 Egypt-Swedish BIT (BIT) Article 8 provides that the requirement to comply with local remedies may be excluded if the local remedies procedure is unreasonably lengthy.

The current international investment arbitration mechanism has encountered institutional challenges, and the important value of host country relief has been re-recognized. The host country's relief can not only reverse the state's passive situation in the process of investment dispute settlement, but also restrict and balance the rights of investors. [9] Calvo doctrine is more manifested as "family continuation of children and grandchildren", requiring investors to use domestic judicial channels to resolve disputes before initiating international arbitration in various forms. [10]

First, it clearly requires that local remedies must be exhausted before international arbitration is initiated. South Africa's 2015 Investment Protection Act provides that, subject to the exhaustion of local remedies, the South African government may agree to investment protection laws Foreign investment under the law adopts international arbitration to handle disputes between foreign investors and the South African government.

Second, further clarify the types of relief that must be exhausted. Since local remedies usually include two remedies, administrative remedies and judicial remedies, in the absence of provisions in the agreement, there is uncertainty as to which one or both remedies investors must exhaust. To strengthen the applicability of local remedies for exhaustion, the 2012 Southern African Development Community (SADC) BIT Model No.28. Unless a resolution is not resolved within a reasonable time, a contracting party may not initiate international arbitration on behalf of its investors regarding the breach of the agreement by the other contracting party.

Third, a further time limit is set for the exhaustion of local remedies. In order to prevent host country remedies from being abused, some investment agreements also specify the duration of local remedies, so as to prevent investors from falling into endless vicious circles of host country procedures and substantially hinder investors from initiating international investment arbitration. 2018 US-Mexico-Canada Agreement (USMCA) Annex 14-D Concerning the Agreement Between the United States and Mexico

The investor-state dispute settlement rules require investors to seek a solution under the procedure of the local court or administrative tribunal of the host country before initiating international arbitration, and they can only appeal to international arbitration after receiving a domestic procedure decision or without a result after 30 months.

In addition, very few countries stipulate that only local remedies can be used for disputes between investors and host countries, and international arbitration is not allowed. For example, Article 366 of Bolivia's 2009 Constitution prohibits the submission of investment disputes in specific industries to international arbitration. Generally speaking, the Calvo doctrine, which advocates the exhaustion of local remedies, is mainly adopted in the constitutions, statutes, treaties and franchise agreements of Latin American countries and other developing countries, and has undergone a process from theory to reality. [11] Although investment liberalization once made developing countries abandon Calvoism and turn to international arbitration, the current international community's dissatisfaction with investment arbitration has caused Calvoism to spread to developed countries. In addition to Australia's trade policy statement issued in 2011 announced its future international investment agreements

The ISDS clause will be excluded. In practice, the free trade agreements signed by Australia, New Zealand, Malaysia and Japan have not included

Contains investor versus state arbitration clause. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) has even frozen investor-state arbitration clauses related to investment contracts and investment mandates. The favor of developed countries for host country relief does not mean that developed countries and developing countries have reached a consensus on accepting the Calvo doctrine, but it deeply reflects that when faced with the flaws in the investment arbitration mechanism, developed countries also realize that the state retains private investment. The importance of regulatory power, and the "economic nationalism" symbolized by Calvoism will be revived in a revised model. [12] Regardless of whether the international investment arbitration mechanism is removed or the local relief of the host country is restored, the root of the host country's demand for foreign investment supervision is consistent.

2.2 "Decommercialization" of Investment Arbitration

Investment arbitration is the most common way to resolve international investment disputes. It has the characteristics of respecting the choice of the parties and finality of the arbitration. Widely accepted by investors. However, as investment arbitration practice has grown, so has criticism of investment arbitration. Criticisms of investment arbitration have centered on: undermining host states' right to regulate for the public good; granting foreign investors more rights than domestic investors in dispute settlement; leading to inconsistent awards; lack of transparency; impartiality of arbitrators and independence issues, etc. [13] Although these criticisms did not form a broad consensus in the international community, they objectively prompted countries to reflect deeply on the investment arbitration system, and adopted the internally revised "de-commercialization" "Improvement measures to promote the self-healing of the investment arbitration mechanism. The most notable achievements in the reform of the investment arbitration mechanism are as follows:

First, increase transparency. Investment arbitration based on international commercial arbitration retains many of the advantages of commercial arbitration, such as confidentiality and finality. However, due to the confidentiality of the arbitration process, the public's trust in the mechanism has been reduced, and the public's strong demand for the right to know has become a driving force. An important driver of transparency in international investment dispute settlement procedures. [14]

The 1965 ICSID Convention insists that arbitral awards can only be made public with the consent of the parties. North American Free Trade Agreement of 1992 (NAFTA) strived for the right of countries and investors involved in investment arbitration to disclose the arbitration award, which strongly promoted the transparency process of investment arbitration. In 2006, ICSID revised its arbitration rules to promote the "de-commercialization" of investment arbitration by enhancing the transparency of arbitration procedures. [15] Although this version of the rules retains the stipulation that ICSID shall not publish the award without the consent of the parties concerned, it adds the excerpts of the legal reasoning of the arbitral award that should be published in a timely manner. In addition, it also stipulates that unless one of the parties objects, the arbitral tribunal may hold public hearings. The arbitral tribunal may allow other persons other than the parties and their lawyers, witnesses, etc. to participate in or observe the hearing. This shows that ICSID no longer adheres to the principle of arbitration confidentiality that was originally emphasized, but takes the principle of arbitration confidentiality as an exception. International investment arbitration has changed from being held in secret (unless otherwise agreed by the parties) to openly and transparently (unless otherwise agreed by the parties). [16] ICSID has extensive influence on its more than 160 member states, which makes the revision of ICSID arbitration rules related to transparency enhance the freedom of investment arbitral tribunals as a whole.

In contrast, the 2010 revision of UNCITRAL's arbitration rules is still relatively conservative on the issue of transparency. Such as the UNCITRAL Arbitration Rules It is stipulated that unless the parties agree otherwise, the hearing will not be held in public. The arbitral award may be published with the consent of the parties. It can be seen

that the UNCITRAL Arbitration Rules It basically continues the tradition of confidentiality in commercial arbitration. Until 2013, UNCITRAL promulgated the Investor-State Investment Arbitration Transparency Rules (hereinafter referred to as the Transparency Rules), which stipulates that the arbitration documents and hearing process involved in investment arbitration shall adopt the principle of openness, which breaks the long-standing tradition of confidentiality. Transparency Rules It has strengthened the openness of the entire arbitration procedure, provided a model of transparency for investor-state arbitration procedures, and is a major progress made by the international community in its long-term efforts to enhance the transparency of investment arbitration. [17] Thereafter, according to the transparency rules Convention on Transparency in Treaty-based Investor-State Arbitration, further expanding the transparency rules in the form of an international treaty scope of application. Efforts by ICSID and UNCITRAL to enhance transparency in investment arbitration. Second, reduce excessive litigation. Since resorting to investment arbitration is an exclusive right created by investment treaties for investors, [19] the initiative to initiate the arbitration procedure lies with the investor, and the host country can only respond passively. The asymmetry in the allocation of litigation rights in the investment arbitration mechanism provides opportunities and possibilities for investors to abuse the arbitration process. [20] The host country may reduce or abandon the normal and effective supervision of foreign investment due to the risk of investors abusing the investment arbitration mechanism, resulting in a chilling effect. The reform of the investment arbitration system requires rebalancing between investor protection and host country regulation, and reducing excessive litigation has become the consensus of the international community. However, there are differences in the understanding and identification of arbitral tribunals on abuse of litigation. For this reason, a more effective way to reduce abuse of litigation is to directly limit and narrow the scope of investment arbitration cases through investment agreements.

Judging from the development of investment agreements on arbitrable dispute clauses, early investment agreements basically did not restrict the investment disputes that can be submitted to arbitration, and usually stipulate that any dispute can be resolved by arbitration, and investors hardly encounter obstacles in the scope of investment disputes when initiating investment arbitration.. As host countries are constantly threatened by investment arbitration, countries have gradually begun to clarify the definition of investment disputes and deny the arbitrability of certain investment disputes, minimizing and amending the traditional perception that investment disputes are equivalent to commercial disputes. Taking the United States as an example, almost all U.S. bilateral investment agreements have defined investment disputes that investors can submit to arbitration. Disputes arising from investment contracts, investment mandates, or violations of investment-related rights conferred by this Investment Agreement by nationals or companies of the other party", without the vague wording of "any dispute". Another example is the 2005 U.S.-Uruguay BIT, Article 24, Paragraph 1, further clarified that the dispute over the violation of the investment agreement is a "violation of the obligations under Articles 3 to 10 of the BIT", thus excluding a party's violation of transparency, investment and the environment. The arbitrability of disputes arising from treaty obligations under clauses such as, investment and labor. Annex H of the investment chapter of the CPTPP stipulates that the investment review decisions made by Australia, Canada, Mexico, New Zealand and other members in accordance with their respective domestic investment laws are not subject to investment arbitration, and foreign investors are not allowed to initiate arbitration for disputes arising therefrom.

In line with the narrowing of the scope of investment arbitration cases in investment agreements, recent investment agreements have also added expedited review procedures to the rules of investment arbitration procedures. The objection to the request can be heard quickly, which can provide the host country with timely procedural relief to prevent investors from arbitrarily suing. At the same time, the investment agreement also allows the arbitral tribunal to award compensation to the winning party for its reasonable expenses and attorney fees incurred in raising or opposing objections, so that the party that abuses or maliciously delays the arbitration procedure shall bear corresponding economic penalties. These provisions can play a useful role in deterring investors from initiating investment arbitration at will. To reduce the host country's passive involvement in investment arbitration litigation.

2.3 Institutional Challenges of Investment Courts

Although the international community has made many efforts to improve the existing investment arbitration mechanism, not all countries are satisfied with only modest improvements to the investment arbitration mechanism. The developed economies represented by the European Union hope to realize investment

The relative stability of the adjudication body for resource disputes and the consistency of the adjudication results as much as possible. All along, the EU has tried to maintain its role as the founder and main actor in the international investment system, and believes that it has the responsibility to play a leading role in this field, including leading the global reform path of the investor-state investment dispute settlement mechanism. [21] From negotiating and signing a comprehensive economic and trade agreement with Canada (CE - TA) Commencement, to the European Union to propose a Transatlantic Trade and Investment Partnership (TTIP) draft, the EU is taking the form of bilateral agreements to promote its proposed investment court scheme. With the conclusion of trade and investment agreements between the EU and Singapore, and the EU and Vietnam, the investment court model represented by the EU is likely to become the future direction of dispute settlement between investors and the host country [22], thus providing the international community with access beyond the traditional A dispute settlement system model of international judicial nature. The long-term dominance of investment arbitration in the settlement of investment disputes will face new

institutional challenges and competition. Although the EU's recent economic and trade agreements have different expressions on the investor-state dispute settlement mechanism, they basically all have the following characteristics:

First, the size and selection of investment courts are determined by the contracting states, and the parties involved in the case have no right to choose referees. Unlike investment arbitration where parties to a dispute are free to decide who will hear their dispute, the members of the court under the EU Investment Court model are determined by the countries involved in the dispute. Judging from the source of referees, the EU investment court model has largely downplayed the private nature of investment arbitration and enhanced the national nature. Specifically, the investment court model establishes a 6-member, 9-person, or 15-member candidate list for the permanent court of first instance procedure, which is jointly determined by the two contracting parties. When trying a specific case, the chief judge of the court of first instance will randomly designate members of the court for the case from the aforementioned list, in principle, three members. In contrast, the ICSID Convention allows parties involved in an arbitration to appoint arbitrators not only from the ICSID list of arbitrators, but also from professionals outside the list. Although under the EU Investment Court model, contracting states can increase or decrease the number of court members based on the size of 6-15 court members in multiples of three, overall, compared with ICSID's list of 437 arbitrators, [23] The number of court members in the EU Investment Court model is very limited and the personnel is relatively fixed, and the parties to the dispute have no right to choose the adjudicator at all.

Second, the investment court has added a second-instance appeal procedure, and the grounds for appeal include both errors in the application of law and errors in finding facts. In contrast, although ICSID has set up remedies for annulment of arbitral awards, Article 52.1 of the ICSID Convention stipulates that annulment of awards is limited to improper composition of the arbitral tribunal, obvious ultra vires, bribery of arbitral tribunal members, serious violation of basic procedural rules, failure of the award State the reasons for it. Since the right to file an annulment action can only be limited to the aforementioned five situations, so far only 17 annulment arbitration cases have been finally determined to be partially or completely annulled. [24] In order to make up for possible errors caused by a final ruling, the EU Investment Court model has set up an appeal procedure. The grounds of appeal under the EU Investment Court model absorbed the five grounds of ICSID's revocation of the ruling, and added grounds such as errors in the application or interpretation of the law in the first instance, and serious errors in the determination of facts, which are very close to the grounds of appeal in domestic litigation procedures, so that it can be more Prevent possible misjudgments in the first instance on a large scale. It is worth mentioning that in the first instance procedure of the EU Investment Court, the court's determination of the relevant domestic law is regarded as a factual determination. If there are serious errors in the determination of domestic law in the preliminary trial procedure, the parties to the dispute will appeal on this basis. Therefore, the second instance procedure of the EU Investment Court may even completely reopen the case.

Third, take the multilateral permanent investment court as the ultimate goal. The investment agreement signed by the European Union recently clarified that the next step in the construction of investment courts is to establish multilateral investment courts through international negotiations. The court could be independent of, or include, a multilateral appeals mechanism. It can be seen that, for the EU, the EU Investment Court at the bilateral level is only a "basketball trial", and its more ambitious efforts are to establish an international multilateral investment court.

It is obvious that the reform of the European Union has abandoned the investment arbitration mechanism with the characteristics of private law, embedded the value concept of public law in the new institutional arrangement, and moved towards the embrace of the permanent investment court with public law and emphasizing the attributes of the state; it is realized with the majesty of the system The survival of the system promotes the realization of legitimacy through the pursuit of consistency and the protection of the interests of the host country. [25] Although the mechanism of the EU investment court contributes to the certainty of the law and the consistency of the ruling, the price is that the disputing parties lose the right to independently choose the members of the court, which puts investors in a relatively passive and unfavorable position, and the appeal mechanism is not available. To avoid the loss of time to investors. [26] The effectiveness of the EU investment court model has yet to be tested by time.

3 STANDARDIZATION TREND OF FLEXIBLE SETTLEMENT OF INVESTMENT DISPUTES

3.1 Refinement of Negotiated Settlement

Negotiation is the first solution method recommended by the investor-state dispute settlement clause of investment agreements. The negotiation method not only saves manpower and financial resources, but also maintains the cooperation between the two parties in dispute. For investment disputes involving the public interests of the host country, negotiation and consultation methods will help investors better understand the demands of the host country in terms of public interests, and help prevent the expansion of disputes. [27] For this reason, almost all investment agreements stipulate that after an investment dispute arises, it should be settled through negotiation as much as possible, and only when the negotiation fails can other remedies such as judicial or arbitration be initiated.

Although the advantage of negotiation is that the subjects involved in the negotiation and the subject of the dispute overlap, it is more able to effectively communicate with commercial concerns.

However, because of the negotiator's status as a businessman, the pursuit of flexibility in dispute handling makes it difficult for both parties to form a fixed norm as a guideline for negotiation rules. For this reason, for a long time, the dispute settlement clauses of international investment agreements signed under the leadership of the state have very

simple provisions on negotiation. Under normal circumstances, it is only stipulated in principle that legal disputes arising from investment between investors and the host country should be settled amicably by both parties to the dispute through consultation as much as possible. Some agreements further require the party proposing the negotiation to send a written notice to the other party regarding the initiation procedure of the negotiation. Practice has shown that overly rough negotiation terms may affect the certainty of investors' right to initiate arbitration. For example, in Abaclat v. Argentina and Ambiente v. Argentina, the arbitral tribunal gave different interpretations to the negotiation clause in the Italy-Argentina BIT cited in the cases. The arbitral tribunal in the previous case held that the negotiation requirement was not mandatory, but only the goodwill of the two parties trying to resolve the matter in an amicable manner first. The arbitral tribunal in the latter case held that the BIT has established a multi-level and orderly dispute settlement system, which is a mandatory requirement for jurisdiction. [28] It can be seen that only with clear and definite negotiation terms can the negotiation link be smoothly connected to the arbitration link.

As the international community continues to question investment arbitration and the role of consultation has been enhanced, the EU has recently begun to seek consensus through investment agreements as an alternative to arbitration. [29] Article 8.19 of CETA, in addition to retaining the traditional maximum time limit for negotiation and increasing the number of places for negotiation, has made progress in improving the efficiency of investment dispute settlement through negotiation: First, it allows small and medium-sized enterprises to invest or, through video conferencing or other appropriate means. This remote electronic dispute resolution method not only takes into account the limited economic strength of investors, but also conforms to the current trend of network-based dispute resolution. Second, the investor is required to send a negotiation request to specify the basic information of the investor, the CETA clauses involved in the dispute, the legal and factual basis of the dispute, claims, etc., and provide evidence that the investor is an investor of the other contracting party. By listing the specific content of the negotiation requirements, it can help the parties to the dispute to sort out the reasons for the dispute and the demands of investors more quickly, and it will also facilitate the host country to prepare for the negotiation and make the next step of acceptance or defense in a more targeted manner. Third, stipulate the time limit for submitting consultation requests. Drawing on time-limit requirements in investment arbitration, CETA imposes

The time limit is added to the initial link to achieve the purpose of urging investors to protect their rights as soon as possible to stabilize the legal relationship between the parties.

3.2 Institutionalization of Mediation Solutions

Due to its flexibility, adaptability, moderation and low cost, mediation is widely used in dispute settlement. Since investment disputes are often complex, with both legal and non-legal controversies, a holistic consideration of the many issues involved is required. [30] Although there are currently only 11 investment disputes resolved by ICSID mediation rules and additional convenience mediation rules, it cannot be ignored that investors and host countries generally hope to resolve disputes quickly while maintaining long-term cooperative relations. In fact, mediation is more effective when resolving comprehensive and complex disputes involving law, politics, and economics. If the system of mediation is more complete and more effective, it is expected to be used more in the settlement of investment disputes.

2018 UNCITRAL Convention on International Settlement Agreements Resulting from Mediation (hereinafter referred to as the Singapore Convention on Mediation) can ensure the promotion of the international enforceability of mediation dispute settlement, laying the foundation for the implementation of commercial mediation documents, marking a major international commitment to the modernization of mediation mechanisms, and priority application in resolving cross-border and international disputes. [32] Although the mediation of investment disputes has developed in recent years, there is still work to be done before a unified investment mediation convention. Singapore Mediation Convention It provides a reference for the institutionalized construction of investment dispute mediation.

First, countries add mediation content to investment agreements. The recent rapid development of the EU Investment Agreement has provided an important support for the EU to gain the right to speak in investment rules. CETA between the European Union and Canada has made more detailed regulations on the stage of mediation initiation, the impact of mediation on the legal rights and status of the parties to the dispute, the applicable rules of mediation, the appointment of mediators, the maximum period of mediation, and the method of mediation termination. Since then, other free trade agreements negotiated and signed by the EU have basically continued the content of CETA mediation. The investment protection agreement signed between the EU and Singapore in 2018, in addition to the mediation settlement method stipulated in the procedural rules of the agreement, further, in the form of an annex, separately discusses the procedures, implementation, general terms and conditions of the dispute mediation mechanism between investors and contracting parties. The code of conduct for mediators has set up special norms.

Second, international organizations formulate mediation rules for investment disputes. In addition to ICSID having special mediation rules, other international organizations have also begun to pay attention to the institutionalization of investment arbitration rules. For example, in 2012 the International Bar Association (IBA) published the Investor-State Mediation Rules, to provide for the scope of application of mediation, the initiation of mediation procedures, the independence and impartiality of mediators, the appointment and change of mediators, the role of mediators, mediation behavior requirements, mediation management meetings, confidentiality, the end of mediation procedures, mediation fees, etc.. IBA's Investor and State Mediation Rules, applicable to contractual or non-contractual disputes concerning investments with the state and state institutions. According to this rule, mediation proceedings can be initiated at any time. The mediator does not necessarily have a special legal knowledge background, the parties to the dispute have

complete autonomy in the selection of the mediator, and the mediation rules on the qualification requirements of the mediator are only of reference value. To prevent excessive time being spent on the appointment of a mediator, the IBA Mediation Rules provide for an institution or individual to assist in the appointment of a mediator. Although the IBA Mediation Rules are not enforceable, parties to a dispute may choose to apply or modify the applicable or non-applicable Mediation Rules. However, it cannot be denied that the more detailed mediation program design provided by the IBA mediation rules can improve the operability of mediation. Although mediation has the advantage of strong coexistence and compatibility with other dispute resolution procedures, in practice, care must be taken to prevent mediation from becoming a "chicken rib" that cannot substantively resolve disputes but delays time. Therefore, it is necessary to consider setting a maximum time limit for mediation, such as 6 If effective results cannot be achieved within months, the mediation shall be terminated unless both parties to the dispute object.

3.3 Treatyization of the Preventive Mechanism

In the process of reforming the investor-state dispute settlement mechanism, facing the high number of investment arbitration cases, the international community, especially countries that are relatively repulsed by investment arbitration, has turned to pay more attention to investment dispute prevention policies. Dispute prevention, as a mechanism focusing on prevention in advance, can prevent differences between investors and host countries from turning into actual investment disputes. It has the effect of scale protection and helps maintain a good cooperative relationship between investors and host countries. The need for common interests is a win-win solution. [33] In practice, South Korea, Georgia, Japan, the Philippines, the United States and other countries have established ombudsman systems in their countries to promote non-reciprocal unilateral investment dispute prevention mechanisms. [34]

The Ombudsman, also known as the Administrative Ombudsman, is usually an official appointed by the legislature, whose main duty is to deal with complaints about administrative or judicial actions. Through their independent, professional, impartial and amiable persuasion work, inspectors play the role of "keepers" of administrative and judicial actions. [35] Taking South Korea as an example, in order to resolve the complaints and grievances of foreign-invested enterprises operating in South Korea, South Korea adopted the Korean Foreign Investment Promotion Act in 1999 A foreign investment inspector system was established. South Korea's inspector system has the following characteristics: First, it is clearly authorized by national law. The foreign investment inspector system in Korea, the functions of the foreign investment inspector office, and the operation of the complaint settlement agency are all regulated by the Korean Foreign Investment Promotion Act. and Foreign Investment Promotion Law Enforcement Decree To ensure that the prevention of foreign investment disputes can be recognized and protected by the country's national laws. Second, the process of selecting and appointing inspectors is complicated. The Korea Foreign Investment Inspector is also the person in charge of the complaint resolution agency. Its selection must be discussed by the Korea Foreign Investment Committee, recommended by the Minister of Trade, Industry and Commerce of Korea, and appointed by the President of Korea. The mutual supervision of multiple procedures and the appointment of the president make the inspectors more credible and authoritative. Third, the dual functions of preventing disputes and promoting investment. The functions of South Korea’s foreign investment inspectors and their grievance resolution agencies include collecting and analyzing information on issues related to foreign-invested enterprises, requesting the cooperation of relevant administrative agencies, and suggesting perfect policies for foreign investment promotion, and implementing and assisting foreign-invested enterprises to resolve their complaints. Other necessary tasks for appeals. [36] Due to the support of a strong legal basis, Korean foreign investment inspectors have the right to force the corresponding government agencies to respond, [37] so as to effectively intervene in the handling of foreign-invested enterprises' dissatisfaction or complaints against the local government. From 2013 to 2017, Korean inspectors resolved 2,030 foreign investment complaints, among which investment incentives accounted for the largest number of complaints. South Korea's mature foreign investment inspector system has successfully prevented foreign investment dissatisfaction from escalating into investment disputes. South Korea has been sued for investment disputes so far only three cases, [38] are not unrelated to the implementation of the inspector system.

Influenced by South Korea's foreign investment inspector system, Brazil introduced an investment dispute prevention mechanism into its investment agreement, [39] and realized the progress of investment dispute prevention from unilateral domestic legislation to bilateral investment treaties. Not only that, Brazil's investment dispute prevention mechanism has further replaced investment arbitration with investment dispute prevention, completely breaking through the dispute settlement mode of existing investment agreements, [40] and becoming a new reform force in the tide of investment dispute settlement. In its Model Investment Cooperation and Facilitation Agreement (CFIA) in 2015, Brazil specifically set up a "dispute prevention" clause, stipulating that the national focal points or inspectors designated by the two parties should communicate with each other and communicate with each other. Joint committees under the agreement maintain communication to prevent disputes between the parties.

When an investor of one contracting party is dissatisfied with the government measures of the other contracting party, the contracting party to which the investor belongs may request the joint committee to hold a meeting in accordance with the prescribed procedures. Representatives of investors, representatives of both contracting parties, and other relevant representatives should participate in the meeting for dialogue and consultation. The Joint Commission reports after completing its assessment of investment dispute information. The report should not only identify the contracting parties and affected investors, but also explain the government measures negotiated by the two parties, as well as the conclusions of the negotiations between the two parties. Although the Joint Commission itself is not empowered to

resolve investment disputes and its reports are not binding on the contracting parties, it is important to establish an effective mechanism for cooperation and information sharing between state and non-state actors, as well as to designate a national focal point ISDS proliferation can be mitigated to some extent through dispute prevention through joint committees, joint committees or other efforts to facilitate dispute resolution. [41]

The investment dispute prevention design in the Brazilian model has been adopted by the Brazil-Angola BIT signed in 2015 in practice. Under Article 15 of the Brazil-Angola BIT, the Inspector in Brazil is the Foreign Trade Council, an interministerial coordinating body that is part of the Brazilian Presidential Council. Angola's inspectors are based at the Ministry of Foreign Affairs. One of their responsibilities is to take direct action to prevent disputes and to promote cooperation between competent government authorities and the private sector concerned to facilitate dispute resolution. The joint committee established according to the agreement mainly helps to understand the facts and opinions of all parties by holding meetings, negotiating and evaluating information, and issuing reports, and strives to resolve dissatisfaction before conflicts escalate. The content of the dispute prevention clauses between Brazil and Angola's BIT basically copied the corresponding content of the Brazilian CFIA model. As Brazil's first effective BIT, the Brazil-Angola BIT replaces investor-state arbitration with investment prevention and state-to-state arbitration, successfully breaking through the long-standing dilemma of the Brazilian Parliament's approval of investment agreements, which will profoundly affect the practice of future investment agreements in Brazil, and will Followed by the proliferation of the Brazilian investment treaty network.

4 CHINA'S CHOICE OF THE "BELT AND ROAD" INVESTOR-STATE DISPUTE SETTLEMENT MECHANISM

4.1 The Value Orientation of the ISDS Mechanism of the "Belt and Road"

Driven by the market economy, traditional international economic rules embody the value concept of the supremacy of liberty, and are increasingly deviating from social justice. [42] The "One Belt, One Road" initiative launched by China in 2013 is committed to building a community of interests, a community of destiny, and a community of responsibility featuring political mutual trust, economic integration, and cultural tolerance. The initiative has been responded by more than 120 countries in the world and recognized by the United Nations General Assembly. Since most of the countries along the "Belt and Road" are developing countries, the "Belt and Road" construction adheres to the principle of "common and sustainable development" advocated by developing countries, updates international economic legislation, and pursues a new international economic order. [43] In the process of establishing the dispute settlement mechanism, the principle of extensive consultation, joint contribution and shared benefits in the "Belt and Road" initiative should be fully considered and incorporated. The comparative advantages of various dispute resolution methods allow the "Belt and Road" dispute resolution mechanism to equally protect the legitimate rights and interests of Chinese and foreign parties, and create a fair, just, stable and efficient business environment under the rule of law. [44]

Currently, ISDS is evolving towards a diversified path. Different reform proposals reflect the discourse power struggle among different countries or organizations. These different proposals will continue to coexist and jointly promote the development of the ISDS mechanism. [45] Promoting the vision and actions of jointly building the Silk Road Economic Belt and the 21st Century Maritime Silk Road Article 3 emphasizes that the construction of the "Belt and Road" should not only abide by the laws of the market and international rules, but also respect the various choices of development paths of various countries. Its open and inclusive spiritual connotation is reflected in the value pursuit of the ISDS mechanism. As long as the goal of effectively and fairly resolving investor-state disputes is achieved, both existing traditional dispute resolution methods and innovative and breakthrough dispute resolution methods should be recognized and encouraged. In setting up a specific dispute settlement mechanism, consideration should be given to the acceptability of relevant parties, maintaining the authority of the legal system, and the effective implementation of dispute settlement results, so that the dispute mechanism can maintain the authority of the legal system and make relevant laws The rights granted to the parties by the rules are maintained and the additional obligations are fulfilled, AND resolve relevant disputes fairly and efficiently to ensure the smooth progress of the "Belt and Road" construction[46].

4.2 The Implementation Path of the "Belt and Road" ISDS Mechanism

Since the "Belt and Road" initiative was put forward, China has signed nearly 170 cooperation documents with different countries and international organizations. The concept and consensus of the "Belt and Road" have been widely recognized by the world. Stable cooperation mechanisms and multi-stakeholder regional organizations. Due to the lack of the basic support of the "Belt and Road" agreement, it is difficult to form a special "Belt and Road" dispute settlement mechanism, and it is difficult to guarantee its operation. [47] The "One Belt, One Road" investor-state dispute settlement mechanism is also facing the same dilemma. In addition, China has signed investment agreements with most countries that include investment dispute settlement clauses, which can basically meet the "One Belt, One Road" investment dispute settlement needs., which has further aggravated doubts about the significance and actual effectiveness of the new independent "Belt and Road" investment dispute settlement mechanism.

As the initiator of the "Belt and Road" initiative, China is the largest capital importer and capital exporter along the "Belt and Road". China has inherent motivation and practical needs for building a sound, efficient and fair investment

dispute settlement mechanism. China's current investment treaties reflect the development trend of procedurally balancing the protection of interests of investors, host countries and other stakeholders. [48] In view of the treaty-based obstacles in the aforementioned international approaches, it is difficult to achieve the goal of promoting joint consultation and joint establishment of a special "Belt and Road" dispute settlement institution with countries along the route. In contrast, it is more pragmatic to learn from the innovative practices of the international community on investment dispute settlement mechanisms and try to build an investment dispute mechanism in China that suits the needs of the construction of the “Belt and Road”. Utilization of the Infrastructure Investment Bank (hereinafter referred to as AIIB). Specifically, from a domestic unilateral perspective, we can consider using my country's existing institutional foundation to establish and improve my country's investment dispute prevention center, and enhance the role of flexible dispute settlement methods in preventing and resolving investment disputes; establish an international investment court of the Supreme People's Court, Focus on accepting foreign investors' investment disputes against the Chinese government, promote state power to intervene in investment dispute resolution, and improve the execution of dispute resolution results. From the perspective of regional cooperation, it can be considered to refer to the historical experience of ICSID under the World Bank to promote the participation of the AIIB in the settlement of investment disputes in the infrastructure projects it provides financing.

First, learn from the Brazilian investment dispute prevention mechanism and establish and improve the investment dispute prevention center. The Investment Prevention Mechanism in the Brazilian Investment Agreement requires each contracting party to choose a government agency in its own country to be responsible for handling complaints related to the interests of foreign investors. Due to the timely intervention of designated central government departments, foreign investors' dissatisfaction with the host country government has a chance to be resolved before it turns into an investment dispute. Therefore, investment dispute prevention can be regarded as a "fire extinguisher" for investment dispute settlement to a certain extent. Although investment prevention does not belong to the traditional investment dispute settlement methods such as consultation, mediation, host country relief and investment arbitration, it can play a role in easing and reducing pressure before disputes and conflicts become investment disputes. By reducing the level of intense conflicts between foreign investors and host countries, Dispel the dissatisfaction of foreign investors.

The existing practice of my country's investment dispute prevention mechanism is the National Complaint Center for Foreign-Invested Enterprises under the Investment Promotion Agency of the Ministry of Commerce. In terms of scope of functions, when domestic foreign-invested enterprises and their investors believe that their legitimate rights and interests have been infringed by administrative actions of administrative agencies, they may submit to the Center for coordination and resolution, or report the situation, put forward suggestions, opinions or requests. At the institutional level, a multi-level linkage mechanism between the central and local governments has been established. In addition to the National Complaint Center for Foreign-Invested Enterprises, local governments at various levels may establish local complaint handling agencies. The National Complaint Center for Foreign-Invested Enterprises may transfer relevant matters to the local Complaint Center for handling. The burden of proof is mainly borne by the complainant, that is, the foreign-invested enterprise or investor. In terms of processing time, the Complaint Center should complete the complaints accepted within 30 working days, and handle the complaints by issuing opinions, coordinating with relevant departments administratively, and handing over or forwarding them to relevant departments. [49]

Although my country has preliminarily established an investment dispute prevention mechanism, there are still problems such as too few matters accepted by the complaint center, unclear burden of proof of the administrative agency being sued, and limited coordination ability of the complaint center. For example, the existing regulations require the Complaint Center not to accept matters that enter judicial or administrative reconsideration or arbitration procedures, or that are accepted by discipline inspection, supervision, petition and other departments. However, for foreign investors, complaints are the least economically costly way to resolve grievances. Self-restriction on complaint acceptance matters in accordance with the "ne bis in idem" litigation thinking is equivalent to blocking the opportunity for the complaint center to listen to the complainant's experience, which is not conducive to the function of serving foreign businessmen in coordination and alleviating dissatisfaction. In fact, the Complaint Center should be able to carry out the process in parallel with judicial, quasi-judicial or quasi-judicial procedures, and assist complainants to communicate and understand the progress of feedback in a timely manner. Another example is that the existing regulations require the complainant to provide corresponding evidence and actively assist the Complaint Center in its investigation. However, there are still many gaps in the regulations to be clarified, including whether the accused institution is obliged to cooperate with the investigation and provide evidence; whether the Complaint Center has an effective way to request other administrative agencies to provide assistance during the coordination process; and whether the Complaint Center coordinates complaints to find investment disputes When there is a potential major risk, whether there is an early warning system to the designated department, etc. Foreign Investment Law of March 2019 The complaint mechanism of foreign-invested enterprises has been included in the corresponding content of investment protection. In the future, the Chinese government will strengthen the prevention of investment disputes. However, the effective operation of the complaint work mechanism also depends on expanding the acceptance of matters, clarifying the burden of proof of the administrative agency being sued, strengthening the coordination ability of the complaint center, and establishing an early warning system for complaint handling results, etc. Only when the foundation of the domestic rule of law is complete, can my country's foreign investment agreements be signed or upgraded to include investment dispute prevention clauses that focus on complaints.

Second, try to establish an international investment court based on the International Commercial Court of the Supreme People's Court. In order to adapt to the deepening of the "Belt and Road" construction and the increase in cross-border

commercial disputes, the Supreme People's Court established the First and Second International Commercial Courts in Shenzhen and Xi'an respectively in 2018 to focus on accepting international commercial cases based on the agreement of the parties and the court's discretion. As an international legal cooperation platform provided by my country, my country's International Commercial Court has achieved important innovations: First, under the principle of extensive consultation, joint construction and shared benefits, the International Commercial Court has hired legal experts from different countries to form an international commercial expert committee. The expert committee can provide consulting opinions on the special legal issues involved in the trial of international commercial courts, and provide international commercial dispute mediation services for the parties. Second, the International Commercial Court integrates mediation, arbitration, and litigation dispute resolution methods to provide "one-stop" multi-dispute resolution legal services for multinational commercial entities. The parties to a cross-border commercial dispute can choose the International Commercial Court for litigation, or choose the International Commercial Mediation Agency commissioned by the International Commercial Court Expert Committee or the International Commercial Court for mediation, or choose a qualified international commercial arbitration institution selected by the International Commercial Court Arbitrate. The International Commercial Court provides judicial support in the formulation and execution of mediation agreements, preservation measures in arbitration procedures, and enforcement of arbitral awards. Moreover, the International Commercial Court adopts the final trial of the first instance to achieve a more fair and efficient resolution of international commercial disputes.

At present, the EU is mainly promoting the construction of investment courts at the bilateral level. Countries have not yet established investment courts in their own countries to deal with investment disputes between foreign investors and their own governments. Disputes between foreign investors and the government are mainly resolved through the existing judicial procedures of the host country. Although the investment agreement negotiations between my country and the EU have not yet reached an agreement on the investment court, but from my country's regional comprehensive economic partnership agreement (RCEP) The proposed text of the negotiation clearly shows the framework design of the first-instance ruling and the second-instance ruling. my country has agreed in principle to establish a two-tier case trial mechanism similar to the EU investment court system. To this end, drawing on the experience of international commercial courts, trying to set up international investment courts, and further concentrating on the trial of administrative litigation cases involving foreign capital, can not only prepare for China's future participation in the construction of international investment courts under investment agreements, but also conform to China's establishment of international investment courts. The direction of the domestic judicial system reform of the administrative court. The 2014 my country Administrative Litigation Law Amendments to determine the ownership or use rights of natural resources such as land and mineral deposits, expropriation, expropriation or compensation for expropriation and expropriation, acts involving administrative agreements such as franchise agreements, land and house expropriation compensation agreements, temporary withholding of licenses, confiscation Government regulatory actions that violate investment agreements, such as violations of income, are included in the scope of actionable administrative actions. In view of the fact that the foreign investment control measures of my country's administrative agencies are mostly related to the obligations under the investment agreements signed by my country with foreign countries, once foreign investors are dissatisfied with the results of my country's administrative litigation, there is a risk of submitting to international dispute settlement procedures, which requires Chinese judges to have a high theoretical foundation and trial ability, not only master the domestic administrative litigation laws and regulations, but also have an understanding of the knowledge of international investment agreements. For this reason, following the example of the International Commercial Court, the International Investment Court will be set up in the process of establishing the Administrative Court, focusing on resolving investment disputes between foreign investors and the Chinese government, and upgrading the settlement method of foreign-related administrative litigation. The response to the trend, and the ability to plan ahead in advance, as a "touchstone" for my country's participation in the reform of international investment dispute settlement. Judging from the international investment arbitration cases in which the Chinese government has participated, the cause of the arbitration is mostly related to the administrative behavior of the land use right of the local government. For example, in the case of South Korean investor Ansung Company v. China, Sheyang County, Jiangsu Province failed to provide the Korean investor with land use rights as agreed; and for example, in the case of Malaysia Ekran Company v. China, the Hainan Provincial Government took back the land use that had been transferred to Malaysian investors rights without reasonable compensation. Although these investment arbitration cases have not entered the substantive trial stage due to jurisdictional issues or settlements, and the Chinese government has not yet faced the pressure of the government to undertake compensation liabilities for violations of investment agreements, but if an effective and fair domestic complaint and judicial settlement mechanism can be established, Similar investment disputes have the opportunity to be resolved smoothly before foreign investors initiate international arbitration. From the point of view of centralized judicial litigation, drawing on the innovative practices of international commercial courts, the Supreme People's Court can set up an international investment court to centrally accept administrative litigation cases involving foreign investment. By establishing an expert committee and absorbing arbitrators and mediators appointed by my country to ICSID, it can not only play a role in supporting the trial work of international investment courts, but also accumulate practical experience in resolving investment disputes, and improve the number of arbitrators appointed as arbitrators in international investment arbitration institutions. Opportunity. According to the complex procedures of the case, simple and ordinary procedures are distinguished, and the first or second instance is final, and the administrative mediation system is introduced to allow the government and investors to reach a mediation agreement to resolve disputes.

Third, refer to the experience of ICSID under the World Bank to promote the participation of the AIIB in the settlement of investment disputes in the infrastructure projects it provides financing. Looking back at the history of the establishment of ICSID, it is not difficult to find that it has a close relationship with the World Bank. The World Bank's intention to participate in the settlement of disputes between its member states and foreign investors was mainly due to the fact that one of the purposes of the World Bank is to promote private investment in its member countries. If the investment disputes are not resolved, it will hinder further investment inflows into the country. The World Bank's main financial resources depend on borrowing in the capital market. If the borrowing country fails to resolve debt defaults or expropriation disputes, its market position will be affected. The role of the World Bank as a financial intermediary between capital-exporting and capital-importing countries promotes the World Bank's neutral position between foreign investors and host country governments.

stand. Earlier in the case of Egypt's expropriation of the Suez Canal Company in 1956 and the dispute between the Tokyo Municipal Government and French bondholders in 1958, the then president of the World Bank had been invited to provide good offices and mediation in the dispute. The General Counsel of the World Bank played an important role in the initial blueprint design process of ICSID. After the establishment of ICSID, the relationship with the World Bank was further strengthened. On the one hand, ICSID's office is headquartered in the World Bank, the chairman of the Council of ICSID's highest authority is the President of the World Bank, and ICSID members are members of the World Bank and other invited countries. On the other hand, the World Bank uses the means of regulating the granting of loans to member countries to play the role of sanctioning member countries that fail to implement the arbitration award. For example, because Argentina failed to fulfill its obligation to pay compensation as determined by the ICSID arbitration award from 2007 to 2013, the United States, as the investor's home country, together with other countries such as the United Kingdom, prevented Argentina from obtaining loans from the World Bank.

The AIIB is closely related to the construction of the "Belt and Road". It is not only the achievement of China's financial integration after the "Belt and Road" initiative was proposed in 2013, but also the first multilateral financial institution established under China's initiative. The AIIB, established at the end of 2015, currently has 93 member countries. One of its purposes is to promote public and private capital investment in the development field in the Asian region, focusing on supporting infrastructure construction such as energy, transportation, and urban infrastructure. These areas are not only the priority areas of the "Belt and Road" construction, but also areas with high incidence of disputes in investment arbitration practice. Obviously, the effective and proper settlement of investment disputes in the infrastructure field is conducive to the healthy development of the investment and financing business of the AIIB. Considering that the dispute settlement mechanism embedded in the substantive cooperation agreement framework is often more dynamic than the dispute settlement mechanism free from substantive rules, can fully refer to the international template of the World Bank to establish ICSID, and use the substantive resources, set up a special “Belt and Road” investment dispute settlement institution or an investment dispute settlement institution specifically for infrastructure investment disputes, such as investment disputes between private clients using AIIB loans and member parties. This is not only to provide an alternative investment dispute settlement center for the international community, but more importantly, it is to expand the voice of China and other developing countries in the Asia-Pacific region in the field of international investment dispute settlement. However, due to the relatively short establishment time of the AIIB and the insufficient business development, it is not yet ripe to set up an investment dispute settlement institution under the AIIB at this stage. It is more feasible in the short term to learn from the early World Bank Relevant investment disputes provide historical experience in mediation and mediation. Through the design of AIIB loan contract terms, promote the AIIB president or other senior staff to participate in the investment management supervision and investment dispute settlement of private investment infrastructure projects financed by AIIB loans.

4 EPILOGUE

"The way is innovating every day", without deviating from the value pursuit of fair settlement of investment disputes, on the basis of inheriting the existing effective dispute settlement methods and making appropriate repairs, we should innovate and develop new investment with a more open and inclusive attitude dispute mechanism. This is not only more in line with the objective laws of the development of things, but also my country's due position in adhering to the principle of seeking truth from facts in the settlement of international disputes.

As the proposal and implementation of my country's all-round open cooperation strategy and the great success of the AIIB in attracting founding members, the "Belt and Road" reflects the rebalancing of globalization under the leadership of my country. In the new historical period when the amount of capital export has exceeded the amount of capital input, China should fully consider the effectiveness and convenience of dispute settlement for overseas investors in China, and combine the advantages of China's domestic and international dispute settlement systems., to provide Chinese solutions for enriching and improving the international investment dispute settlement mechanism.

COMPETING INTERESTS

The authors have no relevant financial or non-financial interests to disclose.

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