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When Worlds Collide: The EU's Institutional Vision for Investment Arbitration and Resistance within the International Legal Order

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Abstract: Recent years have seen extensive debate on the reform of investor-State dispute settlement (ISDS). The European Commission's proposal for a Multilateral Investment Court (MIC) seeks to recast ISDS by establishing a permanent two-tier adjudicatory system with an appellate instance, and by enhancing procedural transparency. The initiative aims to address the legitimacy crisis that has confronted conventional ISDS. However, resistance has emerged within the existing international legal order. Frictions have appeared in arbitral practice and treaty architecture. The MIC's jurisdictional scheme exposes structural tensions between the delegation of sovereign authority and global governance frameworks. This paper employs a methodology that combines normative analysis with targeted case studies. The central claim is that the EU's supranational model of judicial governance sits uneasily with sovereignty-centred premises of international investment law. Drawing on the CJEU's judgments in Slowakische Republik v Achmea BV and République de Moldavie v Komstroy LLC, the analysis maps the fault lines between the MIC initiative and existing arbitration mechanisms. The salient issues concern jurisdictional allocation, conflicts of applicable law, and the recognition and enforcement of arbitral awards. The paper also shows that the MIC's attempt to remedy arbitral inconsistency through institutional centralisation engages sensitive sovereignty concerns. Based on recent practice, the paper argues that the MIC is not a mere procedural reform. It constitutes a significant institutional transformation intended to shift international investment arbitration from decentralisation to centralisation. The EU's institutional vision carries potential for legal and institutional innovation. Its successful implementation, however, depends on complex processes of international coordination and legal integration. To mitigate these tensions, this paper advances the principle of 'differentiated and adaptive sovereignty'. The principle provides a flexible framework that preserves core sovereign prerogatives while accommodating reform, and that supports a more inclusive and adaptable international investment arbitration regime.

Keywords: Multilateral Investment Court (MIC); Investor-State Dispute Settlement (ISDS); Investment Arbitration; EU Judicial Governance; Differentiated and Adaptive Sovereignty

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1.Introduction

In recent years, the traditional investor-State dispute settlement (ISDS) mechanism has faced sustained criticism for inconsistent and unpredictable awards, opaque procedures, perceived arbitrator bias in favour of investors, and encroachment

on the regulatory sovereignty of host states.[1] The number and value of such cases have surged, while the proceedings remain lengthy and costly. Against this backdrop, the EU has proposed the establishment of a Multilateral Investment Court (MIC) as one pathway to reconstitute the rule of law in international investment.[2] The MIC seeks to remedy flaws in the current regime through institutional centralisation by creating a permanent and unified judicial body that strengthens the consistency and authority of decisions.[3] As Rosenfeld observes, this proposal 'marks a critical milestone in the move towards a better model of dispute resolution between investors and states'.[4] The MIC blueprint has nevertheless triggered deep conflict and pushback within the international legal order, ranging from disagreement over applicable law and the allocation of jurisdiction to controversy about the enforceability of awards and tensions between treaty obligations and the preservation of state sovereignty. Building on a systematic analysis of the MIC's institutional design and the drivers of reform, this paper examines the points of conflict between the MIC and the existing system of international investment arbitration and advances a coordination pathway informed by a perspective of 'differentiated and adaptive sovereignty', offering a flexible scheme that seeks to balance the diversity of state sovereignty with the drive towards transnational judicial integration.

2.The Legal Architecture and Institutional Drivers of the EU MIC

The EU's push for reform arises from a comprehensive reassessment of the shortcomings of the traditional investor-State dispute settlement mechanism.[5] In the view of the EU, heavy reliance on ad hoc tribunals whose members are selected by the parties produces unpredictable outcomes, calls arbitrator impartiality into question, and leaves a one-shot system with no meaningful avenue for error correction.[6] During negotiations on the Transatlantic Trade and Investment Partnership, the EU first introduced the idea of an Investment Court System (ICS) as a transitional arrangement. Subsequent treaties adopted this two-tier permanent court model instead of conventional arbitration. These include the Comprehensive Economic and Trade Agreement between the EU and Canada, the Free Trade Agreement between the EU and Vietnam, and the Investment Protection Agreement between the EU and Singapore. In 2015, the EU issued a concept paper titled Investment in TTIP and Beyond The Path for Reform, which for the first time set out a vision for a Multilateral Investment Court.[7] The EU argued that a permanent system with an appellate instance could raise procedural transparency and enhance consistency of outcomes, while reducing risks of conflicts of interest in appointments and reducing conflicts that arise across cases.[8] In March 2018, the Council of the EU adopted negotiating directives that authorised the European Commission to open talks with states and international organisations on the establishment of a Multilateral Investment Court. The European Commission also stated that in current and future negotiations on EU investment agreements, this new system, would replace the existing ISDS mechanism.[9]

The Multilateral Investment Court is not only a procedural reform. This signals a shift towards a model of judicial governance defined by institutionalisation and centralisation. Under the EU proposal, the MIC would comprise two permanent tiers, a court of first instance and an appellate court. Judges on the first instance court would be permanent members who meet strict standards of independence and neutrality, and who assume corresponding ethical obligations.[10] The appellate court functions as an error correction mechanism that offers a channel of relief to parties who consider that the first-instance decision contains errors of law or fact. Judges at both tiers would serve on a full-time basis and would be pre-selected to a roster by the contracting states before any dispute arose. Unlike the current system, the parties to a dispute would not select the adjudicators. An appointment would be made jointly by the treaty parties. Terms would be fixed and non-renewable, and judges would receive fixed remuneration to insulate them from party-specific financial incentives. The MIC adopts a code of conduct for judges and requires a high level of procedural transparency. For example, proceedings would be public, and hearing records and decisions would be published except for confidential material.[11] Clear time limits would apply at both the first instance and on appeal to control costs. Through these features, the EU aims to build an investment adjudication system that is closer to a traditional court and addresses problems associated with the ad hoc nature of appointments and the phenomenon of multiple concurrent appointments. The creation of the MIC would mark an important institutional turn within international investment dispute settlement towards a more centralised and institutional model.

However, the MIC is not a perfect solution. The EU's own experience shows that a permanent investment court has not always delivered as expected in treaty-making contexts. For example, negotiations with Japan and Singapore on investment

protection have not concluded because the counterparties did not accept the ICS. Some scholars also warn that the MIC may amount to a simple repackaging of ISDS that leaves core problems intact.[12] Zwolankiewicz criticises the MIC as a costume change that dresses the defects of ISDS in judicial attire and suggests that it may combine the weaknesses of the WTO and ICSID systems.[[13] Even so, the EU's underlying motivation remains the pursuit of a systemic response to fragmentation in dispute settlement and the loss of public trust. Deng and co-authors note that the MIC emphasises consistency of decisions, independence of review, transparency and efficiency, and that it seeks through a standing institution, to overcome the contingencies of ad hoc tribunals and the mutually damaging outcomes that frequently arise.

3.Conflicts Between the MIC and International Investment Arbitration Regime

This chapter proceeds by examining two case studies.

Case I Achmea B.V. [14] and the Reform of Intra-EU BITs

At the inception of the MIC proposal, the intra-EU investment arbitration system had already suffered a major setback in Achmea (C-284/16). In March 2018, the Court of Justice of the European Union held that the arbitration clause in the Netherlands–Slovakia bilateral investment treaty was incompatible with EU law and, therefore, invalid. The ruling undermined the applicability of intra-EU BITs within the EU legal framework and had far-reaching consequences for both the EU-centred system and the international law-centred arbitration regime. Thereafter, 23 EU Member States signed the Termination Agreement, which, from 29 August 2020 brought to an end some hundred and thirty intra EU BITs and their arbitration clauses. Under this agreement, all intra EU BITs in force and related disputes are treated as inapplicable, and new intra-EU BIT arbitration is expressly prohibited. Member State courts have since invoked Achmea to set aside or refuse to enforce awards based on intra-EU BITs. The German Federal Court of Justice held the arbitration agreement invalid, and the Federal Constitutional Court dismissed Achmea's constitutional complaint against its annulment. As a result, within the EU, investors can no longer seek relief through ISDS and must turn to domestic courts. This shift has markedly reduced investment protection within the EU and is widely regarded as a negative development for legal certainty.

Case II Komstroy[15] and the Energy Charter Treaty

After Achmea, the shock to intra-EU arbitration spread further still. In 2021, in Komstroy (C-741/19), the Court of Justice ruled that the arbitration clause in the Energy Charter Treaty did not apply to disputes between EU Member States. In other words, the Achmea logic was extended to multilateral treaties. Investment disputes arising under the ECT between EU Member States are deemed incompatible with EU law. Faced with this position and the stalemate in the ECT modernisation process, most EU States opted to withdraw, and in June 2024, the EU formally notified its exit from the treaty, with an exit planned for 2025. The consequences for the energy sector are significant and far-reaching. Although EU law denies the jurisdiction of certain tribunals within the EU, in practice, some European investors have continued to bring ECT claims before the ICSID against the EU and its Member States and have obtained enforcement outside the EU. One example is the Klesch Group's claim against the EU, Germany, and Denmark. Even as enforcement within the EU has tightened, awards have retained their vitality beyond the EU. This contrast underscores the tension between the MIC vision and the existing international arbitration order.

3.1 Conflicts over Applicable Law and Jurisdictional Allocation

The MIC blueprint goes to the heart of the forum and the authority of international investment adjudication. On applicable law, the EU tends to stress an integrated reading of EU law and investment treaties, while the traditional arbitral model, especially where the ICSID Convention applies, gives greater weight to general international law.[16] If the MIC were to take in multilateral instruments such as the Energy Charter Treaty, tribunals would be expected to factor EU law into treaty interpretation. This sits uneasily with the orthodox position in international arbitration that EU law need not be considered. In Achmea, the Court of Justice held that the arbitration clause in an intra-EU bilateral investment treaty was incompatible with the EU law. Although Achmea addressed the clash between party consent to arbitration and the primacy of EU law, it revealed the EU's broader tendency to extend its legal order into the investment field. In Komstroy, the Court of Justice carried this logic forward, concluding that Article 26 of the Energy Charter Treaty could not be relied upon for intra-EU disputes. The primacy of EU law therefore prevails, and arbitral review cannot be used to unsettle host-State policy within the EU. Taken

together, the EU position implies that for disputes inside the EU, EU law forms a non-delegable jurisdictional baseline, which sits in sharp tension with a model that relies on the autonomous interpretation of international treaties.

On jurisdictional allocation, the MIC would recentralise adjudicatory authority from national courts to a transnational court and would therefore unsettle the division of authority that underpins the current investment regime.[17] In Achmea, German courts expressed concern that their jurisdiction was being displaced, and the Court of Justice endorsed that view. The implication is that intra-EU bilateral investment treaties that channel disputes away from domestic courts are to be set aside, and that adjudicatory authority would be collectively pre-determined by States rather than left to the control of any single national system. For the ICSID architecture, this would mean accepting compulsory jurisdiction by a pre-constituted permanent court, which would collide with the Convention's premise of consent to jurisdiction on a case-by-case basis. Developed States that favour the MIC tend to support a deterritorialised judicial sphere, whereas many developing States continue to prioritise territorial jurisdiction.[18] The result is a marked divide between preferences for global governance and the defence of State sovereignty.

3.2 Challenges to the Enforceability of Arbitral Awards

Another major point of conflict between the MIC and the international arbitration system arises in the field of enforcement. Under the EU design, the MIC would create its own enforcement regime, and the EU takes the view that MIC decisions could be enforced directly under the New York Convention. Yet the stance of the Court of Justice and of EU institutions weakens the effect of these instruments within EU Member States. After Achmea, the European Commission stated that ISDS clauses in all intra-EU bilateral investment treaties are inapplicable, that the relevant tribunals lack jurisdiction, and that Member State courts should annul or refuse to enforce such awards.[19]

Within the EU, this means that even if an MIC decision is issued under an international treaty, a domestic court could decline recognition on the grounds that it conflicts with EU law. Komstroy reinforced this direction, holding that Article 26 of the Energy Charter Treaty does not apply to disputes within the EU. In substance, the EU's legal order uses judicial channels to limit what might otherwise appear to be unconditional treaty commitments.

Outside the EU, this conflict does not arise similarly. National courts and arbitral bodies consider that once a State and an investor are bound by instruments governing recognition and enforcement, such as the New York Convention and the ICSID Convention, those obligations should be honoured. A French court of appeal followed Komstroy and set aside the same award, while the Swiss Federal Supreme Court took the opposite view and affirmed the international effect of the Energy Charter Treaty. In short, the guarantees supplied by the Washington Convention and the New York Convention remain effective beyond the EU. Two parallel realities therefore coexist: within the EU, courts can refuse investment awards on EU law grounds; outside the EU, international mechanisms continue to support recognition and enforcement.

3.3 Tensions between Treaty Consistency and Sovereignty Reservations

The MIC reform brings to the surface a basic tension between the consistency of international treaty obligations and the desire of States to reserve elements of sovereignty. Many investment treaties do not allow a party to discard its obligations at will. Under the Vienna Convention on the Law of Treaties, parties are bound on an equal footing once a treaty enters into force, and termination requires the consent of the parties or compliance with an agreed-upon exit procedure. By contrast, the EU seeks through judicial interpretation and institutional integration to give priority to its own legal order over international commitments. The dynamic visible in Achmea and Komstroy illustrates this approach. In the EU's view, Member States must protect the autonomy of EU law and must not permit international adjudication to displace that autonomy unless control has been expressly conferred on the EU's judicial system. From the standpoint of general international law, States did not ordinarily lodge such reservations when concluding investment treaties. The mismatch generates what is, in effect, a manufactured conflict in treaty interpretation. Within the EU, that conflict has been resolved in favour of EU law. Intra-EU disputes are therefore handled on the premise that treaty obligations operate only within the limits set by the EU's legal order. The result is a sharp opposition between the principle of treaty consistency and the sovereign reach of regional legal systems. Many developing states worry that this approach allows treaty duties to be curtailed unilaterally, undermining sovereign equality and the expectation of pacta sunt servanda in the international legal order.

In sum, the MIC's centralising vision sits uneasily with the distributed model underlying current investment arbitration. Regarding applicable law, the MIC could require tribunals to consider EU law alongside international treaty norms. Regarding jurisdiction, it would ask States to accept the compulsory authority of a permanent court, which clashes with the ICSID Convention's premise of consent on a case-by-case basis and with the ultimate review authority of courts in EU Member States. On treaty stability, the primacy claimed for EU law stands in basic tension with the Vienna Convention's commitment to the continuity of treaty obligations.

4.Paradoxes at the Intersection of MIC Reform and Global Governance

The promotion of the MIC in international practice has met with resistance and cautious wait-and-see responses from many quarters. International arbitration institutions and existing mechanisms have largely taken a careful stance towards the MIC.[20] Bodies such as ICSID acknowledge that ISDS requires reform and have advanced ideas including an advisory centre and proposals for amendment among the Contracting States to the Washington Convention, yet there is little explicit support for a mandatory permanent court on the MIC model. Many specialists argue that party autonomy and the freedom to appoint arbitrators should be preserved rather than a complete move to a fixed bench of judges. They warn that if the MIC becomes the default, the accumulated case law and the system's flexibility would be weakened, and the advantages of international investment arbitration could be lost.

Among major capital-exporting States such as the United States, Canada, and Japan, support for the MIC is not strong. The United States did not adopt an EU-style two-tier investment court in the USMCA and retained many of its arbitral features. Canada accepted the ICS in CETA, yet did not transplant it wholesale into other multilateral arrangements such as the Trans-Pacific Partnership. Japan signalled reservations about the ICS in its talks with the EU. Its Economic Partnership Agreement was split into a trade agreement and an investment protection agreement, and the latter has not been concluded. These States are concerned that the MIC could constrain their preferred remedies for investors or require them to accept an unfamiliar judicial design. South Korea has also submitted papers to the UNCITRAL raising questions or reservations about the MIC. Overall, major Western capital exporters have not rallied behind the EU MIC agenda and remain cautious.

The positions of developing countries are more complex and divided. Some emerging economies worry that the MIC could deepen Eurocentrism and narrow their policy space. In the modernisation of the Energy Charter Treaty, many States, including India, chose to withdraw from the talks and opposed the automatic extension of dispute settlement to the updated rules. India stated that unilateral moves towards judicial unification would fragment the investment regime. Members of the African Union favour selective accession. The African Continental Free Trade Area, for example, allows States to decide whether to accept the jurisdiction of an international investment court. These choices signal a broad preference among developing countries to preserve greater autonomy over the balance between sovereignty and adjudication. In the design of the MIC, developed States tend to support compulsory jurisdiction, while developing States prefer consent on a case-by-case basis or optional accession. This North–South divide stems from the different assessments of the regulatory costs of ceding authority. Capital exporters prioritise investment protection and enforcement efficiency, whereas capital importers are wary of judicial intrusion into development policy.

The trends from 2023 to 2025 have intensified these challenges. UNCITRAL Working Group III has continued to negotiate ISDS reform, yet no framework agreement on the MIC has been reached. At its forty-ninth and fiftieth sessions in September 2024 and January 2025, the focus shifted from sweeping institutional blueprints to more granular work on procedures and cross-cutting questions, including appellate review and the operation of a standing mechanism.[21] The EU tabled a proposal for a permanent multilateral mechanism for investment dispute settlement, but positions remain far apart. Emerging economies, such as Brazil and South Africa, insist on consent to jurisdiction on a case-by-case basis, while the EU seeks gradual binding of States to the MIC. The outcome of the Energy Charter Treaty process was also striking. The EU formally notified its withdrawal in June 2024 with effect planned for 2025.[22] Courts outside the EU have provided avenues for the enforcement of investment awards. Courts in the United Kingdom have permitted the attachment of Spanish assets, and courts in the United States have authorised the enforcement of an award against Spain under the Energy Charter Treaty. By contrast, courts within the EU have been resistant. After Komstroy, the courts in France and Poland set aside the award in that case.

These developments illustrate the difficulty in securing broad acceptance for the MIC reform path. Progress requires sufficient consensus in multilateral forums such as UNCITRAL, yet arbitration institutions, major developed States, and developing States continue to diverge and friction persists. The arbitration community must account for the long-term effects of EU law on international investment law and find innovative ways to protect investors.

The international rollout of MIC faces several constraints. Tensions between sovereignty concerns and judicial design, and between the aims of integration and flexibility, make a uniform global agenda difficult to advance quickly. In particular, after the Achmea and Komstroy cases, further movement inside the EU meets legal and political headwinds, while the willingness to participate outside the EU is increasingly split. The negotiations and practice to come will need to strike a balance between development needs and institutional innovation. The next part therefore turns to 'differentiated and adaptive sovereignty' as a possible route to break the impasse.

5.Pathways to Coordination: Starting From 'Differentiated and Adaptive Sovereignty'

Given the fundamental flaws in the all-or-nothing logic of sovereignty transfer revealed by MIC reform, a turn to the principle of 'differentiated and adaptive sovereignty' appears to offer a more inclusive institutional path. Differentiated and adaptive sovereignty rests on the recognition that transfers of sovereign authority can be gradual, conditional, and reversible, and that such transfers may evolve as States' preferences and external conditions change. States can choose different trajectories and degrees of transfer in light of their political economy, investment policy needs, and levels of trust. Differentiated and adaptive sovereignty is not a principle already established in international law or traceable to a specific treaty or line of cases. Its intellectual roots lie in several adjacent, yet distinct, traditions. Neil Walker was among the first scholars in the EU context to address the interplay between 'sovereignty and differentiation', and he outlined layered routes for the transfer of sovereign competences.[23] Around 2000, Aihwa Ong advanced the idea of 'graduated sovereignty' to describe how States under globalisation allocate sovereign powers in differentiated ways across space, communities, and economic zones.[24] Stephen D. Krasner's notion of 'shared sovereignty' adds a realist institutional template by proposing treaty-based arrangements for the joint exercise or trusteeship of sovereign functions. History shows that sovereignty is not immutable.[25] The creation of the WTO dispute settlement system itself reflects a functional cession of adjudicatory authority by States. Meanwhile, States maintain bottom lines in the exercise of sovereignty and must balance international obligations with domestic legitimacy. If the MIC is to embed the idea of 'differentiated and adaptive sovereignty' in its design, it should innovate in the following areas.

First, functions should be layered by distinguishing 'transferable competences' from 'reserved domains' in the MIC treaty design. A negative list can clarify which policy areas are excluded from the jurisdiction of an international court—for example, public health, cultural security, and food security—so that core sovereignty is preserved while allowing adaptive transfers of authority in less sensitive areas.

Second, a flexible participation mechanism should allow States to join in stages according to preference. The MIC framework could recognise an observer status or an associate membership track. States could first accept a non-binding appellate review and later decide whether to become full members. 'Flexible opt-in' clauses embedded in the agreement would give developing countries time and space for cautious adaptation and negotiation. This approach is comparable to the investment security exception under the RCEP. It would also soften the backlash that often follows a one-size-fits-all jurisdiction. Members should be able to make modular choices regarding the scope of MIC jurisdiction through opt-in and opt-out arrangements. A State could accede to the MIC while excluding specified provisions, or it could temporarily withdraw from parts of the jurisdiction. This is analogous to the joint interpretative practice under the CPTPP.

Third, nomination and decision-making should be structurally reset. The traditional appointment pattern dominated by capital-exporting States should be replaced by a dual-track nomination process. Candidates from developed countries could be coordinated through the OECD, while candidates from developing countries could be coordinated through the Group of 77. This would help achieve balance on the bench. For treaty amendments and major institutional decisions, a double-majority voting rule could be introduced that considers both the number of contracting parties and their share of investment flows. This would reduce the risk of a few large powers monopolising the reform agenda.

Finally, a multilevel solution should allow the MIC, an appellate mechanism, and existing arbitration to operate in parallel. In the near term, independent arbitral tribunals could be retained, and a common appellate body could be created. In the longer term, once a wider membership agrees, the system could transition to a fully fledged permanent court. Diverse dispute resolution tools, including mediation, negotiation, and domestic remedies, should also be preserved. This would reduce the impact of compulsory jurisdiction on national policy space and would leave room for a policy-space exception and case-by-case choices about whether to arbitrate. Treaty adjustments can proceed in stages. Limited reforms could be piloted in bilateral or regional agreements as transitional steps towards the MIC. The EU can draw on the experience of the modernisation process of the Energy Charter Treaty by adding an appellate review and adopting rules on the consolidation and consistency of awards, rather than launching an entirely new court in a single move. In this way, the dispute settlement architecture could be improved without stripping states of their ultimate judicial authority.

'Differentiated and adaptive sovereignty' offers a theoretical basis for compromise, yet implementation faces practical constraints. Developed countries place a premium on the consistency of outcomes and are reluctant to accept renewed fragmentation and the risk of divergent results in similar cases. Developing countries often struggle to coordinate their positions because their interests diverge, weakening collective bargaining for reciprocal concessions. Institutional switching costs were also high. Replacing the existing ISDS architecture would require reworking more than three thousand bilateral investment treaties, and negotiation costs and conflict-of-laws risks would be significant. However, the reform window is not closed. UNCITRAL Working Group III has placed appellate review and a multilateral court on its agenda, and the continued standstill of the WTO Appellate Body creates an opening for such institutional competition. If the elements of 'differentiated and adaptive sovereignty' are embedded in adjustable multilateral clauses and soft law, and if consensus is built through creeping codification, the MIC could still advance through compromise. One route is to place the principle in a code of conduct for transnational corporations or in annexes to investment agreements so that States can pilot new jurisdictional models. Another route is for the EU to promote a tiered application mechanism in the Mauritius Convention on Transparency or comparable multilateral instruments. Once a convention enters into force, members can choose which categories of investment disputes to submit to the MIC, in light of domestic ratification processes and national interests. Categories can be defined by sector or case type. This would signal a reform commitment by creating more third-party participation and appellate avenues while avoiding the immediate pressure to reopen existing treaties.

'Differentiated and adaptive sovereignty' seeks to advance the MIC vision through gradual and flexible steps while respecting sovereign equality and State consent. The approach recognises varied tolerance for transfers of authority and treats sovereignty adjustment as a dynamic balance. Staged participation and incremental binding can foster the shared acceptance of a supranational judicial mechanism. In this light, the MIC becomes a continuing process rather than a fixed end State. Developed and developing countries can experiment and converge at different levels and speeds in search of a workable equilibrium. Such flexibility preserves the MIC's ambition to enhance consistency and encourages wider participation by allowing States to maintain essential sovereign control during the transition.

Conclusion

The EU's proposal for a Multilateral Investment Court (MIC) carries strong expectations for reform of investor–State dispute settlement.[26] It does more than recalibrate arbitral procedures. It also seeks to shift the operation of international investment law from a decentralised model to a centralised one. From the EU's perspective, this direction promises to address the legitimacy crisis of ISDS and enhance fairness and efficiency across the system. Practice to date, however, shows that such a unilateral attempt at redesign collides with the principle of State sovereignty within the international legal order, and deep frictions have appeared in the allocation of jurisdiction, the identification of applicable law, and the enforcement of decisions. The conflict undermines the stability of existing arbitral practice and tests the boundary between EU law and international law. The legal regime of international investment law now stands at a crossroads between the old and new orders. A more cautious strategy and broader international dialogue are needed if the EU wants to advance its MIC vision. The principle of 'differentiated and adaptive sovereignty' may offer a flexible compromise, allowing States to take part in reform while preserving core sovereign prerogatives. Step by step, this could lay the groundwork for a more inclusive and adaptable system

of international investment adjudication. Only if sovereignty protection and systemic reform are pursued together can the MIC's potential for innovation take root within the international legal framework, and the widening stand-off between the EU and the broader order be avoided. Throughout this process, States should safeguard their legitimate interests and policy space, and participate in multilateral cooperation so that gradual reform can give new vitality to international investment arbitration.

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