

Tang, Suphanvasa Chotikajan; Thiratayakinant, Kraijakr

## Research Report

# Where to establish the Advisory Centre on International Investment Dispute Resolution?

Columbia FDI Perspectives, No. 405

## Provided in Cooperation with:

Columbia Center on Sustainable Investment (CCSI) - A joint center of Columbia Law School and the Earth Institute, Columbia University

*Suggested Citation:* Tang, Suphanvasa Chotikajan; Thiratayakinant, Kraijakr (2024) : Where to establish the Advisory Centre on International Investment Dispute Resolution?, Columbia FDI Perspectives, No. 405, Columbia University, Columbia Center on Sustainable Investment (CCSI), New York, NY

This Version is available at:

<https://hdl.handle.net/10419/314445>

### Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

### Terms of use:

*Documents in EconStor may be saved and copied for your personal and scholarly purposes.*

*You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.*

*If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.*



## Columbia FDI Perspectives

Perspectives on topical foreign direct investment issues

Editor-in-Chief: Karl P. Sauvant ([karlsauvant@gmail.com](mailto:karlsauvant@gmail.com))

Managing Editor: Chioma Menankiti ([clm2249@columbia.edu](mailto:clm2249@columbia.edu))

*The Columbia FDI Perspectives are a forum for public debate. The views expressed by the authors do not reflect the opinions of CCSI or our partners and supporters.*

No. 405 March 17, 2025

### **Where to establish the Advisory Centre on International Investment Dispute Resolution?**

by

Suphanvasa Chotikajan Tang and Kraijakr Thiratayakinant\*

The concept of an “Advisory Centre on International Investment Law” predates the work undertaken by UNCITRAL’s Working Group III. The [journey began in the early 2000s](#), after the Advisory Centre on WTO Law (WTO Advisory Centre) was established. Informal discussions in UNCTAD and other fora then ensued, on whether to apply a similar model to investor-State dispute-settlement (ISDS) cases to provide affordable legal support to least developed and developing States, given that the costs involved in litigating these cases could be prohibitively high. Such an organization would [level the playing field](#) and [ensure access to justice](#) for resource-constrained respondent States. Despite early advocacy, the idea, however, did not gain sufficient political momentum or institutional backing.

Fast forward to 2024, when Working Group III finalized and concluded a draft [statute on the advisory centre on international investment dispute resolution](#) (Advisory Centre), later adopted in principle by UNCITRAL at its 57<sup>th</sup> session in July 2024.

As its name change implies, the Advisory Centre will focus on international investment dispute resolution rather than on international investment law more broadly. It will offer *two primary services*: technical assistance and capacity-building (Article 6) and legal advice and support regarding international investment dispute proceedings (Article 7).

Recognizing that the statute is only one piece of the puzzle, [UNCITRAL also mandated an informal process](#) to further discuss matters related to establishing the Advisory Centre. To support this, Thailand hosted the first [Advisory Centre Operationalization Meeting](#) in Bangkok during 2-4

December 2024. The meeting focused on three issues: ways to establish the Advisory Centre within the UN system based entirely on extrabudgetary resources; criteria for determining the location of the headquarters and regional offices; and objective criteria for classifying States. This *Perspective* focusses on the second issue (for the other issues, see the [report](#) on the meeting).

As part of the informal process, the Operationalization Meeting could not make decisions. Nevertheless, [substantial progress](#) was made, and the second Operationalization Meeting is scheduled for May 2025 in Yerevan, Armenia. It will discuss a number of outstanding issues, including the anticipated budget based on potential membership and workload; the amount of member contributions and methods of payment; and thresholds of membership and contributions for the entry into force of the statute. These operationalization issues are complex—but crucial for the Advisory Centre’s effectiveness and sustainability. To succeed, States will need to compromise and not let the perfect be the enemy of the good.

The WTO Advisory Centre served as a model and point of inspiration and was referred to often during the drafting of the statute and the Operationalization Meeting. But there is one unique feature of ISDS cases that arguably requires the Advisory Centre to be established differently, namely the locations where ISDS cases may arise. As WTO cases are only heard at the WTO, and most WTO members have a permanent mission in Geneva, it makes sense that the WTO Advisory Centre is also located there, to advise its State clients and to provide training for State representatives at permanent missions. ISDS cases, on the other hand, arise all over the world. This unique feature renders it useful—or even necessary—to establish the Advisory Centre with a set-up of headquarters and regional offices, to effectively and efficiently deliver both of its services.

During the Operationalization Meeting, it emerged that ease of access to the Advisory Centre by its main beneficiaries—least-developed and developing States—would be crucial to its success. Therefore, it was generally accepted that the Advisory Centre’s headquarters should be located where there were well-functioning international airports and public transport networks, reducing travel costs to and from the Advisory Centre. Furthermore, it was also observed that proximity to potential dispute-resolution venues should be considered as an element of accessibility. Moreover, establishing headquarters in a developing State would ensure a better distribution of international organizations around the world and align with the broader agenda of the SDGs by fostering inclusiveness. Several States offered to host the Advisory Centre, namely Armenia, Côte d’Ivoire, Democratic Republic of the Congo, Egypt, France, Ghana, Paraguay, and Thailand.

Keeping in mind these considerations and the discussions at the Operationalization Meeting, the Advisory Centre should be established with a headquarters and one or two regional offices, provided that there are sufficient resources and support from potential host States. Such a set-up will ensure that the Advisory Centre is accessible to State clients for both services and provides proximity to potential dispute-resolution venues. For instance, Bangkok could be the headquarters

of the Advisory Centre, with Paris as a regional office, given their complementarity. Indeed, at the Operationalization Meeting, both Thailand and France offered to jointly host the Advisory Centre, and called for a “global partnership” to take maximum advantage of what each State has to offer.

As ISDS cases do not stop and wait, an expedited establishment of the Advisory Centre on International Investment Dispute Resolution with the proposed set-up would optimally benefit least developed and developing States, and turn the page on a two-decade journey.

---

\* Suphanvasa Chotikajan Tang ([csuphan@yahoo.com](mailto:csuphan@yahoo.com)) is Director-General of the Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Thailand; Kraijakr Thiratayakinant ([kraijakr.t@mfa.go.th](mailto:kraijakr.t@mfa.go.th)) is Minister Counsellor at the Ministry of Foreign Affairs, Thailand. The opinion expressed here is solely their own and does not reflect the position of the Royal Thai Government. The authors wish to thank Catharine Titi, Piotr Wilinski and an anonymous peer reviewer for their helpful peer reviews.

*The material in this Perspective may be reprinted if accompanied by the following acknowledgment: “Suphanvasa Chotikajan Tang and Kraijakr Thiratayakinant, ‘Where to establish the Advisory Centre on International Investment Dispute Resolution?’ Columbia FDI Perspectives, No. 405, March 17, 2025. Reprinted with permission from the Columbia Center on Sustainable Investment (<http://ccsi.columbia.edu>).” A copy should kindly be sent to the Columbia Center on Sustainable Investment at [ccsi@law.columbia.edu](mailto:ccsi@law.columbia.edu).*

For further information, including information regarding submission to the *Perspectives*, please contact: Columbia Center on Sustainable Investment, Charles Denis, at [cd3427@columbia.edu](mailto:cd3427@columbia.edu).

The Columbia Center on Sustainable Investment (CCSI), a joint center of Columbia Law School and Columbia Climate School at Columbia University, is a leading applied research center and forum dedicated to the study, practice and discussion of sustainable international investment. Our mission is to develop and disseminate practical approaches and solutions, as well as to analyze topical policy-oriented issues, in order to maximize the impact of international investment for sustainable development. The Center undertakes its mission through interdisciplinary research, advisory projects, multi-stakeholder dialogue, educational programs, and the development of resources and tools. For more information, visit us at <http://ccsi.columbia.edu>.

#### **Most recent Columbia FDI Perspectives**

- No. 404, David Bradbury and Pierce O’Reilly, ‘[The global minimum corporate tax: outcomes and options](#),’ *Columbia FDI Perspectives*, March 3, 2025.
- No. 403, Mark Feldman, ‘[ASEAN’s expanding role as an FDI rule-maker](#),’ *Columbia FDI Perspectives*, February 17, 2025.
- No. 402, Kenneth A. Reinert, ‘[Subsidy wars and modern industrial policy](#),’ *Columbia FDI Perspectives*, February 3, 2025.
- No. 401, Sandro Zolezzi, ‘[Impact evaluation: an essential tool to improve FDI promotion](#),’ *Columbia FDI Perspectives*, January 20, 2025.
- No. 400, Sol Picciotto, ‘[Toward unitary taxation of MNEs](#),’ *Columbia FDI Perspectives*, January 6, 2025.