European Journal of Interdisciplinary Research and Development
Volume- 51 May- 2026
Website: www.ejird.journalspark.org ISSN (E): 2720-5746

PROCEDURAL MULTIPLICITY AND ENFORCEMENT OF AWARDS IN INTERNATIONAL INVESTMENT ARBITRATION: CONTEMPORARY LEGAL CHALLENGES

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Abstract

This article examines two closely related structural problems of contemporary international investment arbitration: the multiplicity of procedures available to an investor pursuing claims arising from the same or related investment, and the persistent difficulties encountered in recognising and enforcing the resulting awards. The proliferation of bilateral and multilateral investment treaties, the practice of corporate restructuring for treaty protection, and the expansive interpretation of most-favoured-nation clauses have together allowed related claims to be pursued before several tribunals at once, generating a risk of conflicting decisions and duplicative recovery. The article analyses the doctrinal and institutional tools available to control this multiplicity, including consolidation and coordination under the 2022 ICSID Arbitration Rules, the doctrine of abuse of process, and the jurisdictional case law following Maffezini v. Spain. It then turns to the enforcement stage, contrasting the self-contained regime of Articles 53 to 55 of the ICSID Convention with the more permissive but exception-laden regime of the 1958 New York Convention, and examines the recurrent obstacle of state immunity from execution, illustrated by the protracted Sedelmayer v. Russian Federation litigation. Particular attention is given to Uzbekistan's experience as a respondent state in the Metal-Tech and Oxus Gold arbitrations and to the domestic legal framework governing arbitration and investment protection. The article concludes that procedural multiplicity and enforcement difficulties are two faces of the same structural problem, namely the absence of a centralised and mandatory dispute settlement architecture, and that incremental reforms such as the 2022 ICSID Rules and the UNCITRAL Working Group III process offer only partial solutions.

Keywords: International investment arbitration, procedural multiplicity, parallel proceedings, ICSID Convention, New York Convention, most-favoured-nation clause, consolidation, annulment, enforcement of arbitral awards, state immunity, Uzbekistan.

Introduction

The system of international investment protection rests on a decentralised network of more than two thousand bilateral and multilateral treaties, each of which typically offers the investor its own, independent consent to arbitration. This decentralisation was designed to depoliticise investment disputes and to give investors direct access to a neutral forum, and in that respect it has largely succeeded. It has, however, produced a side effect that was not fully anticipated by the drafters of the earliest treaties: the same underlying economic harm can now generate several parallel or successive proceedings, brought by different claimants, under different treaties, before different tribunals applying different procedural rules. The Centre has registered several hundred cases since the entry into force of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.[1] This structural feature of the regime, referred to in this article as procedural multiplicity, sits alongside a second and equally persistent difficulty: even where a single tribunal renders a final and binding award, its recognition and enforcement in the jurisdiction where the losing state holds assets is frequently obstructed by domestic rules on sovereign and diplomatic immunity, by public policy objections, or by parallel annulment or set-aside proceedings at the seat of arbitration.

Both phenomena raise closely related questions of private and public international law: which tribunal should hear a dispute when more than one forum is available; how should a tribunal manage claims arising from the same investment but pursued by related claimants; and once an award is obtained, through which legal regime should it be executed, and against which categories of state property. The Centre's own institutional framework provides one part of the answer.[2] The 2022 amendments to the ICSID Arbitration Rules introduced, for the first time, an express mechanism for the consolidation and coordination of related pending arbitrations, while parallel discussions within the United Nations Commission on International Trade Law, Working Group III, have considered more far-reaching structural reforms, including a standing multilateral investment court and an appellate mechanism.[3] These initiatives respond directly to the concerns discussed in this article, but neither has yet altered the fundamental architecture of a treaty-by-treaty, tribunal-by-tribunal system.

The academic and practitioner literature has examined procedural multiplicity and enforcement difficulties largely as separate topics, the former as a matter of jurisdiction and case management, the latter as a matter of execution law and state immunity. This article proceeds from the premise that the two problems are, in fact, sequential stages of a single structural weakness: a regime that grants investors multiple avenues of access to arbitration but does not correspondingly guarantee a single, centralised, and reliably enforceable outcome. The analysis draws on leading examples of parallel proceedings, on the evolution of most-favoured-nation clause jurisprudence, on the 2022 ICSID Rules, and on the experience of Uzbekistan, both as an ICSID contracting state since 1995 and as a respondent in investor-State proceedings, in order to situate the discussion within the practical concerns of a jurisdiction actively developing its investment arbitration framework.

The Phenomenon of Procedural Multiplicity in Contemporary Investment Arbitration. Procedural multiplicity arises in international investment arbitration through at least three distinct mechanisms. The first is treaty multiplicity in the strict sense: an investment is

[1]International Centre for Settlement of Investment Disputes, List of Contracting States and Other Signatories of the Convention (ICSID/3). Uzbekistan ratified the ICSID Convention on 26 July 1995, and the Convention entered into force for Uzbekistan on 25 August 1995. Available at: https://icsid.worldbank.org/resources/lists/icsid-3

[2]See generally ICSID, Guide to Membership in the ICSID Convention (2020), describing the institutional framework created by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. Available at: https://icsid.worldbank.org/sites/default/files/Guide_to_Membership_in_the_ICSID_Convention_2020.pdf

[3]UNCITRAL, Working Group III, Possible Reform of Investor-State Dispute Settlement, mandated by the Commission in July 2017 to identify concerns regarding ISDS and, if reform is desirable, to develop relevant solutions. Available at: https://uncitral.un.org/en/node/333

frequently structured through a chain of holding companies incorporated in different jurisdictions, each of which may benefit from a separate bilateral investment treaty with the host state, so that a single underlying dispute can, in principle, be brought under several treaties by several formally distinct claimants. The second is the multiplication of proceedings through most-favoured-nation clauses, which allow an investor to import more favourable dispute-resolution provisions from a third-party treaty into the treaty actually invoked. The third is genuine multi-party and multi-contract multiplicity, where a single investment project, such as an infrastructure concession or a joint venture, generates claims by several investors, contractors, or subcontractors under interlocking contracts and guarantees. Each of these mechanisms increases the number of fora potentially available to related claimants and correspondingly increases the risk of inconsistent findings on the same underlying facts.

Treaty Shopping, Corporate Restructuring and the Multiplication of Claims. The paradigmatic illustration of treaty-based multiplicity remains the parallel proceedings brought against the Czech Republic at the turn of the century by Ronald Lauder, a United States national, and by CME Czech Republic B.V., a Dutch company through which Mr. Lauder held his investment in a Czech television broadcaster.[4] Mr. Lauder initiated arbitration under the United States-Czech Republic bilateral investment treaty, while CME initiated a separate arbitration under the Netherlands-Czech Republic bilateral investment treaty, based on substantially the same facts and seeking substantially the same relief. The Czech Republic declined to consolidate the two proceedings before a single tribunal, and each tribunal proceeded to a final award on an independent record.[5] The result was directly contradictory: the London-seated tribunal in Lauder found no breach of the treaty, while the Stockholm-seated tribunal in CME found that the Czech Republic had breached its fair and equitable treatment and expropriation obligations and awarded substantial damages. Commentators have since treated the case as the clearest demonstration that a decentralised, treaty-by-treaty consent structure can produce genuinely irreconcilable outcomes from a single course of state conduct.[6] Both tribunals rejected jurisdictional objections grounded in the argument that the claims were, in substance, a single dispute, reasoning formalistically that the treaties, and to a lesser extent the claimants, were legally distinct.

Most-Favoured-Nation Clauses as a Vector of Procedural Multiplicity. A further and independently significant source of procedural multiplicity is the interpretation of most-favoured-nation clauses as extending not merely to substantive standards of treatment but to the procedural and jurisdictional provisions of a treaty. In Maffezini v. Spain, the tribunal held that an Argentine investor could rely on the most-favoured-nation clause in the Argentina-Spain bilateral investment treaty to bypass an eighteen-month local litigation requirement and proceed directly to ICSID arbitration, on the basis that Spain had granted more favourable

[4]CME Czech Republic B.V. (The Netherlands) v. The Czech Republic, UNCITRAL, Partial Award, 13 September 2001, and Ronald S. Lauder v. Czech Republic, UNCITRAL, Award, 3 September 2001. For an overview, see Investment Treaty News: https://www.iisd.org/itn/2018/10/18/cme-v-czech-republic-lauder-v-czech-republic/

[5]See Wikipedia summary of the two parallel proceedings and their divergent outcomes, describing the case as widely discussed for its conflicting results. Available at: https://en.wikipedia.org/wiki/CME/Lauder_v._Czech_Republic

[6]Parallel Proceedings in the Context of ISD Arbitration, The Investment Treaty Arbitration Review, Edition 6, discussing CME v. Czech Republic and Lauder v. Czech Republic as the seminal example of parallel investor-State proceedings on identical facts. Available at: https://www.lexology.com/library/detail.aspx?g=1aa86032-4c14-42ef-996e-3738a306784b

dispute-resolution terms to Chilean investors under a separate treaty.[7] The decision effectively allows an investor to select, from among the host state's entire network of investment treaties, the most procedurally advantageous route to arbitration, regardless of the investor's actual nationality-based treaty of reference. Subsequent tribunals have divided sharply on how far this principle should extend, with some following Maffezini in relation to procedural preconditions and others, including in Salini Costruttori S.p.A. v. Hashemite Kingdom of Jordan and Plama Consortium Limited v. Republic of Bulgaria, refusing to permit a most-favoured-nation clause to create jurisdiction that would not otherwise exist absent clear textual support.[8] More recent decisions, including the Svea Court of Appeal's annulment of an award premised on an expansive most-favoured-nation interpretation, confirm that the trend has moved toward requiring an unambiguous textual basis before a most-favoured-nation clause will be read to multiply the jurisdictional pathways available to an investor.[9] For host states, this uncertainty is itself a source of procedural risk: the scope of consent to arbitration set out in a bilateral treaty can be effectively rewritten by reference to treaties the host state concluded with entirely different counterparties.

Multi-Party and Multi-Contract Proceedings: Consolidation under the 2022 ICSID Rules. The Centre's response to the case-management dimension of procedural multiplicity took concrete institutional form in the 2022 amendments to the ICSID Arbitration Rules, which entered into force on 1 July 2022 after a consultative process of more than five years.[10] Amended Rule 46 allows parties to two or more pending ICSID arbitrations to agree to consolidate or coordinate their proceedings.[11] Consolidation, in the strict sense, joins all aspects of the related arbitrations into a single proceeding culminating in one award, and is available only where the arbitrations were registered under the Convention and involve the same contracting state or a constituent subdivision or agency of that state. Coordination is a lighter mechanism, permitting alignment of specific procedural aspects, such as the appointment of the same arbitrators, joint hearings, or simultaneous issuance of awards, without merging the proceedings themselves, and it remains available even where the related proceedings are conducted under different rules, for example an ICSID proceeding running in parallel with an UNCITRAL proceeding.[12] Critically, both mechanisms require the consent of the parties: the

[7]Emilio Agustin Maffezini v. Kingdom of Spain, ICSID Case No. ARB/97/7, Decision on Objections to Jurisdiction, 25 January 2000. Summary available at Investment Treaty News: https://www.iisd.org/itn/2018/10/18/maffezini-v-spain/

[8]For the subsequent narrowing of the Maffezini approach and the requirement of a clear textual basis for extending an MFN clause to jurisdictional matters, see Baker Botts, No Consent on MFN: The Svea Court of Appeal Annuls the Award in Zaza Okuashvili v. Georgia. Available at: https://www.bakerbotts.com/Thought-Leadership/Publications/2024/December/No-Consent-on-MFN

[9]Aceris Law, MFN Clauses: Recent Developments in Investment Arbitration, tracing the divergence between the Maffezini line of cases and the restrictive approach adopted in Salini Costruttori S.p.A. v. Hashemite Kingdom of Jordan and Plama Consortium Limited v. Republic of Bulgaria. Available at: https://www.acerislaw.com/mfn-clauses-recent-developments-in-investment-arbitration/

[10]Herbert Smith Freehills Kramer, ICSID Member States Approve Amended 2022 Arbitration Rules, describing the amendments as the product of a consultative process spanning more than five years. Available at: https://www.hsfkramer.com/notes/publicinternationallaw/2022-04/icsid-member-states-approve-amended-2022-arbitration-rules

[11]International Centre for Settlement of Investment Disputes, ICSID Arbitration Rules (2022), Rule 46 (Consolidation or Coordination of Arbitrations). Available at: https://icsid.worldbank.org/sites/default/files/Arbitration_Rules.pdf

[12]ICSID, Consolidation and Coordination, ICSID Convention Arbitration (2022 Rules), explaining that consolidation joins all aspects of two or more arbitrations into a single award, while coordination aligns only specific procedural aspects. Available at: https://icsid.worldbank.org/procedures/arbitration/convention/consolidation-coordination/2022

Rules do not grant a tribunal or the Secretary-General the power to impose consolidation over a party's objection, so that a respondent state confronted with the Lauder and CME scenario today would still be able, as the Czech Republic did in 2001, to decline consolidation and accept the risk of inconsistent awards. The 2022 Rules also introduced complementary innovations relevant to multiplicity and its costs, including expedited arbitration for smaller disputes, stricter deadlines for the rendering of awards, and mandatory disclosure of third-party funding arrangements, which bears directly on the incentive structures behind duplicative claims.[13] Taken together, these amendments mark a significant, if still consent-based, step toward procedural rationalisation.[14]

Parallel Proceedings, Lis Pendens and the Doctrine of Abuse of Process. Where consolidation is unavailable or refused, tribunals and commentators have looked to general principles of procedural fairness, including lis pendens and abuse of process, to mitigate the risks of multiplicity. Because investment tribunals derive jurisdiction from distinct instruments of consent, classical lis pendens, which requires identity of parties, cause of action, and object, is rarely satisfied on a strict reading, as the Lauder and CME tribunals themselves confirmed when rejecting the Czech Republic's jurisdictional objections. Abuse of process doctrine has therefore developed as a more flexible, if still underdeveloped, corrective, targeting situations where an investor restructures its corporate holdings, or brings successive claims, specifically in order to manufacture a jurisdictional advantage after a dispute has already crystallised. The doctrine has had only limited success in practice, precisely because tribunals remain reluctant to look behind the formal separateness of corporate claimants and distinct treaty instruments, reinforcing the conclusion that procedural multiplicity is better addressed through structural reform of the consent architecture than through case-by-case doctrinal correction.

Recognition and Enforcement of Awards: The Dual-Track System of ICSID and the New York Convention. Once an award has survived the risks of parallel and multiplied proceedings, a second and analytically distinct set of challenges arises at the enforcement stage, where the applicable legal regime depends on the procedural track under which the award was rendered. Awards rendered under the ICSID Convention benefit from a self-contained regime under Articles 53 to 55: they are final and binding, not subject to appeal or to any remedy other than those provided in the Convention itself, and each contracting state undertakes to recognise the award as binding and to enforce the pecuniary obligations it imposes as if it were a final judgment of a domestic court of that state. National courts asked to enforce an ICSID award have, in principle, no discretion to review the merits or to apply local public policy exceptions of the kind found in commercial arbitration regimes. Awards rendered outside the ICSID Convention, whether under the UNCITRAL Arbitration Rules, the Arbitration Rules of the Stockholm Chamber of Commerce, or other institutional rules, instead travel through the ordinary channel of the 1958 New York Convention, which permits

[13] Bracewell LLP, Eight Key Amendments of the 2022 ICSID Arbitration Rules, noting the introduction of expedited arbitration, stricter time limits for the rendering of awards, and mandatory disclosure of third-party funding. Available at: https://www.bracewell.com/resources/eight-key-amendments-2022-icsid-arbitration-rules/

[14] Mayer Brown, Updated ICSID Arbitration Rules Enter into Force in July 2022: Key Changes You Need to Know About. Available at: https://www.mayerbrown.com/en/insights/publications/2022/06/updated-icsid-arbitration-rules-enter-into-force-in-july-2022-key-changes-you-need-to-know-about

recognition and enforcement to be refused on a defined but broader list of grounds, including invalidity of the arbitration agreement, improper composition of the tribunal, violation of due process, and incompatibility with the public policy of the enforcing state. This bifurcation means that the choice of procedural track made at the outset of a dispute, ICSID or non-ICSID, has lasting consequences for the ease of eventual enforcement, adding a further strategic dimension to the multiplicity problem discussed above.

Annulment versus Setting Aside: Diverging Standards of Post-Award Review. A closely related source of procedural complexity lies in the diverging standards applicable to post-award review. ICSID awards are not subject to set-aside proceedings before the national courts of the seat, since ICSID arbitration is deliberately delocalised from any national legal order; instead, a party may apply for annulment before an ad hoc committee constituted under Article 52 of the Convention, on the narrow and exhaustively listed grounds of improper constitution of the tribunal, manifest excess of powers, corruption, serious departure from a fundamental rule of procedure, or failure to state reasons. Non-ICSID awards, by contrast, remain subject to the set-aside jurisdiction of the courts at the seat of arbitration under the applicable national arbitration law, and a successful set-aside may itself become a further ground for refusing enforcement elsewhere under Article V(1)(e) of the New York Convention. The Oxus Gold arbitration against Uzbekistan, conducted under the UNCITRAL Rules with its seat in France, illustrates this dynamic directly: after the tribunal rejected certain of the investor's claims, the investor applied to the Paris Court of Appeal for partial annulment of the award, invoking alleged breaches of the principles of adversarial process and equality of arms, before the matter was ultimately resolved by settlement.[15] The episode demonstrates that even a single, non-multiplied proceeding can generate a further layer of parallel litigation once the award is challenged at the seat, compounding rather than resolving the underlying multiplicity concern.

State Immunity from Execution as the Final Obstacle. Even a final, unannulled award enforceable under either the ICSID or the New York Convention regime frequently encounters a further and distinct obstacle at the moment of actual execution: the doctrine of state immunity from execution, which national legal systems apply independently of any immunity from jurisdiction that the state may have waived by consenting to arbitration. The protracted litigation arising from Mr. Franz Sedelmayer's 1998 award against the Russian Federation, rendered by a tribunal of the Arbitration Institute of the Stockholm Chamber of Commerce under the Germany-Russia bilateral investment treaty, remains the most extensively documented illustration of this problem.[16] Although Russia's consent to arbitration was treated by several courts as a waiver of immunity from suit, courts in Germany initially declined to permit execution against Russian claims for value-added tax reimbursements and against payments owed by German airlines for the use of Russian airspace, characterising these assets as serving sovereign rather than commercial purposes, while Swedish courts eventually

[15]Legal 500 Country Comparative Guides, Uzbekistan: Investment Treaty Arbitration, describing Metal-Tech Ltd. v. Republic of Uzbekistan, ICSID Case No. ARB/10/3, Award, 4 October 2013, and the Oxus Gold PLC v. Republic of Uzbekistan proceedings and the subsequent partial annulment application before the Paris Court of Appeal. Available at: https://legal500.com/guides/chapter/uzbekistan-investment-treaty-arbitration/?export-pdf=

[16]Mr. Franz Sedelmayer v. The Russian Federation, Arbitration Institute of the Stockholm Chamber of Commerce, Award, 1998, and the subsequent execution litigation described in Franz J. Sedelmayer, noting that the saga involved approximately 140 separate legal proceedings worldwide. Available at: https://en.wikipedia.org/wiki/Franz_J._Sedelmayer

permitted execution against a mixed-use residential property in Stockholm on the ground that its partly commercial use displaced the immunity claim.[17] It took Mr. Sedelmayer more than a decade and upward of thirty separate domestic execution proceedings across several jurisdictions to recover a portion of the sum awarded.[18] The pattern recurs in other well-documented sovereign debt and investment award contexts, and recent case law continues to reveal significant divergence between the approach of United States courts and those of other major enforcement jurisdictions toward sovereign assets and their agencies or instrumentalities.[19] Courts applying an absolute theory of immunity, or requiring proof that specific assets are dedicated to commercial rather than sovereign use, effectively shift the practical burden of the award back onto the successful claimant, who must locate, identify, and litigate over individual categories of state property on a jurisdiction-by-jurisdiction basis.[20]

Uzbekistan's Experience and Legal Framework. Uzbekistan has been a contracting state to the ICSID Convention since the Convention entered into force for it on 25 August 1995, and it has since appeared as respondent in a small number of investor-State proceedings that illustrate several of the themes discussed above.[21] In Metal-Tech Ltd. v. Republic of Uzbekistan, an ICSID tribunal declined jurisdiction over the investor's claims after finding that the underlying investment had been procured through conduct amounting to corruption, illustrating how threshold legality requirements can operate as an independent filter on the multiplication of claims under the Convention. In the separate Oxus Gold proceedings, conducted under the UNCITRAL Rules, Uzbekistan advanced counterclaims that the tribunal ultimately found it lacked jurisdiction to entertain, and the ensuing partial annulment proceedings before the Paris Court of Appeal, discussed above, exemplify the additional procedural layer that a non-ICSID, seat-based track can generate even in the absence of formally parallel arbitrations.[22] Domestically, Uzbekistan's framework for both commercial and investment-related dispute resolution has been substantially modernised in recent years. The Law of the Republic of Uzbekistan No. ZRU-598, "On Investments and Investment

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[17]State Immunity and the Execution of Investment Arbitration Awards, in International Investment Law and the Law of Armed Conflict (Springer, 2021), documenting Sedelmayer's successful execution against Russian property in Germany and Sweden and Russia's reliance on sovereign immunity to resist execution elsewhere. Available at: https://link.springer.com/chapter/10.1007/978-3-030-58916-5_4

[18]State Immunity From Execution in the Collection of Awards Rendered in International Investment Arbitration: The Achilles' Heel of the Investor-State Arbitration System, American Review of International Arbitration, Vol. 26, No. 1, noting that it took Sedelmayer twelve years and more than thirty domestic execution proceedings to collect part of the award. Available at: https://aria.law.columbia.edu/issues/26-1/state-immunity-from-execution-in-the-collection-of-awards-rendered-in-international-investment-arbitration-the-achilles-heel-of-the-investor-state-arbitration-system-vol-26-no-1/

[19]Steptoe, Arbitral Award Enforcement and the Cross-Jurisdictional Treatment of Sovereign Immunity, comparing recent enforcement litigation against sovereigns in the United States and other major enforcement jurisdictions. Available at: https://www.steptoe.com/en/news-publications/arbitral-award-enforcement-and-the-cross-jurisdictional-treatment-of-sovereign-immunity.html

[20]Aceris Law, Enforcing an Investment Arbitration Award: When States Refuse to Pay, discussing the Swedish courts' approach to mixed-use sovereign property in the Sedelmayer proceedings. Available at: https://www.acerislaw.com/enforcing-an-investment-arbitration-award-when-states-refuse-to-pay/

[21]ICSID, List of Contracting States and Other Signatories of the Convention (ICSID/3), cited above at note 1, recording the entry into force of the Convention for Uzbekistan on 25 August 1995. Available at: https://icsid.worldbank.org/resources/lists/icsid-3

[22]Legal 500 Country Comparative Guides, Uzbekistan: Investment Treaty Arbitration, cited above at note 15, discussing the Metal-Tech and Oxus Gold proceedings against Uzbekistan. Available at: https://legal500.com/guides/chapter/uzbekistan-investment-treaty-arbitration/?export-pdf=

Activities", adopted on 25 December 2019 and in force since 27 January 2020, consolidated and replaced the country's earlier, fragmented legislation on foreign and domestic investment, and it sets out the principal guarantees available to investors, including protection against unlawful interference by state authorities, protection from discriminatory or unjustified nationalisation, and guarantees for the repatriation of capital and income.[23] Separately, the Law of the Republic of Uzbekistan No. ZRU-674, "On International Commercial Arbitration", adopted on 16 February 2021, establishes the current legal regime for arbitral proceedings seated in Uzbekistan, including the recognition of arbitration agreements, the composition and independence of the arbitral tribunal, and the limited grounds on which a court may intervene in or set aside an award, and it applies to international commercial arbitration in a manner broadly aligned with the UNCITRAL Model Law.[24] Neither statute purports to resolve the international-level problems of treaty-based multiplicity or cross-border enforcement discussed in this article, which remain governed by the ICSID Convention, the New York Convention, and the network of bilateral investment treaties to which Uzbekistan is a party, but together they provide the domestic institutional foundation on which any future investment dispute, whether brought against or by an Uzbek party, will proceed.

Reform Initiatives: UNCITRAL Working Group III and Institutional Responses. Since 2017, UNCITRAL Working Group III has pursued a broad mandate to identify concerns regarding investor-State dispute settlement and, where reform is considered desirable, to develop concrete solutions, a mandate that squarely encompasses both procedural multiplicity and enforcement difficulties.[25] The Working Group has already finalised a Code of Conduct for arbitrators and, in parallel, a code intended for judges of a potential standing Multilateral Investment Court, and it has advanced work on the statute of that court and on a related appellate mechanism, alongside a proposed Advisory Centre on International Investment Dispute Resolution intended to support states, particularly those with limited institutional capacity, in defending investment claims.[26] A standing court and appellate mechanism, if eventually adopted by a critical mass of states, would directly address procedural multiplicity by replacing ad hoc, treaty-specific tribunals with a single, centralised adjudicative body, and would correspondingly simplify enforcement by producing a more consistent and predictable body of jurisprudence. The proposal remains, however, the subject of continuing disagreement among UNCITRAL member states as to its institutional design, its relationship with the existing ICSID and New York Convention enforcement regimes, and the practical question of how any new instrument's awards or judgments would themselves be enforced against non-

[23]Law of the Republic of Uzbekistan No. ZRU-598 "On Investments and Investment Activities", 25 December 2019, in force from 27 January 2020, as amended. National Database of Legislation. Available at: https://lex.uz/docs/4664144

[24]Law of the Republic of Uzbekistan No. ZRU-674 "On International Commercial Arbitration", 16 February 2021, as amended. National Database of Legislation. Available at: https://lex.uz/docs/5294087

[25]UNCITRAL, Working Group III, Possible Reform of Investor-State Dispute Settlement, cited above at note 3. Available at: https://uncitral.un.org/en/node/333

[26]Foley Hoag, UNCITRAL Working Group III Reaches Notable Milestones in Recent New York Meeting, describing the finalisation of separate codes of conduct for arbitrators and for judges of a potential Multilateral Investment Court. Available at: https://foleyhoag.com/news-and-insights/publications/alerts-and-updates/2023/april/uncitral-working-group-iii-reaches-notable-milestones-in-recent-new-york-meeting/

consenting states.[27] In the interim, the consent-based consolidation mechanism introduced by the 2022 ICSID Rules, together with careful treaty drafting that limits the scope of most-favoured-nation clauses to substantive standards of treatment, represent the most immediately available tools for reducing the incidence of procedural multiplicity.[28]

CONCLUSION

The foregoing analysis supports several conclusions. First, procedural multiplicity in international investment arbitration is not an incidental defect but a structural consequence of a treaty-by-treaty consent architecture, reinforced by the practice of corporate restructuring for treaty protection and by the expansive reading given to most-favoured-nation clauses in the line of cases following Maffezini v. Spain. Second, the doctrinal tools traditionally available to control multiplicity, including lis pendens and abuse of process, are of limited effect precisely because tribunals derive their jurisdiction from formally distinct instruments and are reluctant to look behind the separate legal personality of related claimants, as the divergent outcomes in Lauder and CME starkly demonstrate. Third, the 2022 amendments to the ICSID Arbitration Rules represent the most concrete institutional response to date, but their consent-based design means that a respondent state retains, as the Czech Republic did in 2001, the ability to decline consolidation and accept the risk of inconsistent awards.

Fourth, enforcement of a final award is governed by two structurally different regimes, the self-contained ICSID mechanism under Articles 53 to 55 of the Convention and the exception-laden New York Convention framework, and the choice between them, made at the outset of a dispute, has lasting consequences for the ease of eventual recovery. Fifth, even where an award survives both the risk of multiplicity and any set-aside or annulment challenge, as illustrated by the Oxus Gold proceedings against Uzbekistan, state immunity from execution remains a substantial and, as the Sedelmayer litigation demonstrates over more than a decade and dozens of proceedings, potentially decisive obstacle to actual recovery. Sixth, Uzbekistan's experience as both an ICSID contracting state since 1995 and a respondent in the Metal-Tech and Oxus Gold proceedings, together with its modernised domestic framework under the Law "On Investments and Investment Activities" and the Law "On International Commercial Arbitration", situates the country as a useful case study of a jurisdiction that has built the domestic institutional preconditions for participation in the international regime while remaining fully exposed to its structural weaknesses.

Further research is warranted on at least three fronts: the practical effectiveness of the consent-based consolidation mechanism introduced by the 2022 ICSID Rules once a sufficient body of practice has accumulated; the prospects for convergence between the UNCITRAL Working Group III reform process and the existing ICSID and New York Convention enforcement regimes; and the development of more predictable, internationally coordinated standards

[27]UNCITRAL Working Group III has, since 2017, been developing a Statute for a new multilateral investment court and a Code of Conduct for arbitrators and adjudicators, alongside proposals for an appellate mechanism and an Advisory Centre on International Investment Dispute Resolution. See Columbia Center on Sustainable Investment. Available at: https://ccsi.columbia.edu/content/ccsi-and-uncitrals-working-group-iii-investor-state-dispute-settlement-reform

[28]IISD, UNCITRAL Working Group III and Reform of Investor-State Dispute Settlement, summarising the mandate given to the Working Group in 2017. Available at: https://www.iisd.org/projects/uncitral-working-group-iii-and-reform-investor-state-dispute-settlement

governing state immunity from execution, without which even a fully successful reform of the multiplicity problem would leave the enforcement stage as the regime's principal remaining weakness.

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