

Mediation

Looking Beyond Dispute Resolution

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Investments are valuable



- **States' Perspective:**

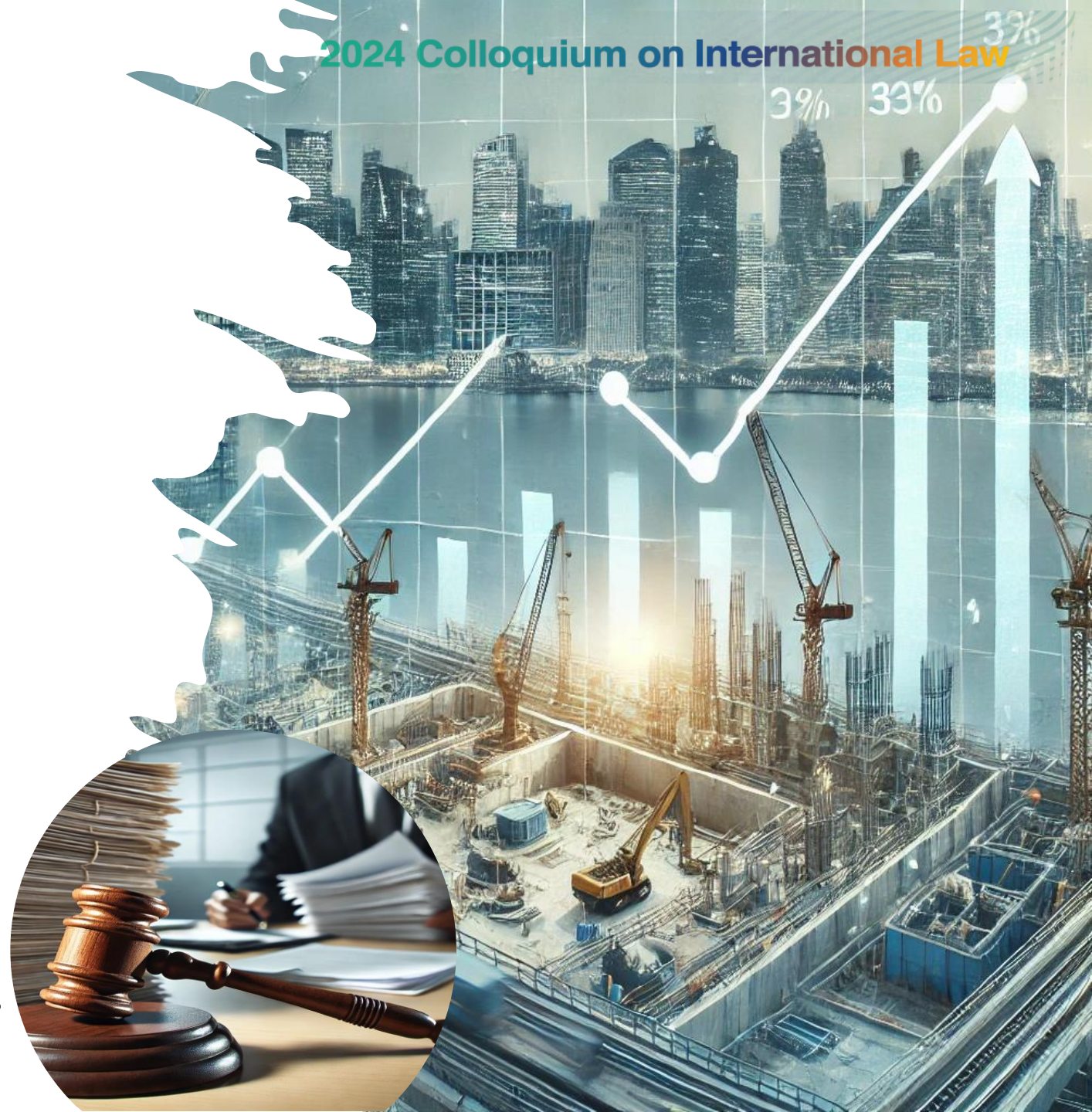
- States endeavor to attract Foreign Direct Investment (FDI).
- International investment agreements (IIAs) aim to promote and protect investments.

- **Investors' Perspective:**

- Foreign investors seek long-term business opportunities abroad.
- They seek stable and predictable business frameworks for securing long-term returns.

Arbitration: A detrimental proposition

- Investments are inherently more valuable than successful arbitration awards.
- **For Investors:**
 - Long-term capital gains are the primary objective, not litigation.
 - Even successful arbitration can result in devalued or lost investments.
- **For States:**
 - Successful defense means no international liability and no compensation.
 - Adverse awards require compensation payment.
- Regardless, the investment is likely lost.





Mediation A Better Alternative

Mediation is usually more advantageous to both parties.

- Focuses on finding mutually beneficial solutions rather than simply resolving a dispute.
- Requires considering broader outcomes beyond the immediate dispute.

In arbitration, one party wins while the other loses, both missing the opportunity to profit from the investment.



Investment Arbitration VS Mediation



Mediation allows both parties to achieve a sense of victory and they may potentially continue to benefit from the investment.

Dispute Settlement Alternatives



Compensation

Alternative solutions



Settlement

Mutually Reciprocal Benefit Mode



- Parties
- Counsel
- Mediators /Conciliators



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Asia's Contribution to Five Principles of
**PEACEFUL
COEXISTENCE**
:Past and Future



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