

4 International Arbitration Trends To Watch: Midyear Report

By **Caroline Simson**

Law360 (August 18, 2025, 11:17 PM EDT) -- As 2025 passes the midyear point, international arbitration attorneys say they're keeping a close watch on trends, including how climate change, geopolitical tensions and procedural and other innovations will continue to affect international dispute resolution.

Climate Change

Climate change and the energy transition are expected to continue coloring international disputes for the remainder of this year and beyond. With respect to investor-state arbitration, the issue has arisen as a result of governments "being placed between a rock and a hard place," according to Christina G. Hioureas, the global co-chair of Foley Hoag LLP's international litigation and arbitration department and chair of its United Nations practice group.

On one side, governments have obligations under international law with respect to climate change, including under pacts like the Paris Agreement. But governments are also facing claims from investors because of the steps they're taking to curb greenhouse gas emissions, such as by reining in traditional oil and gas projects and phasing out coal-fired power.

As an example, the United Kingdom was hit this month with a claim that marks its first climate-related investor state case and first appearance before the International Centre for Settlement of Investment Disputes. The claim reportedly relates to the nixing of a coal mining project in northwest England.

"It's been a challenge that a number of states have been facing — seeking to comply with their obligations, and then being sued for doing so," Hioureas said.

International courts are increasingly being asked for their opinions in such matters, and have been deciding the nations have an obligation under international law to prevent and control the greenhouse gas emissions causing climate change.

In May 2024, for example, the International Tribunal for the Law of the Sea concluded in a 153-page opinion that nations that have signed on to the United Nations Convention on the Law of the Sea are obligated not only to monitor and issue reports on the risks of effects of pollution to the oceans from greenhouse gas emissions, but also to protect and preserve the oceans from climate change impacts and ocean acidification.

The International Court of Justice weighed in last month, too, issuing a rare unanimous decision that

opens the door for nations harmed by human-caused greenhouse gas emissions to seek reparations.

The ICJ opinion is expected have significant impacts in the investor-state space, given its conclusion that countries have "binding obligations" under international law to ensure the protection of the environment from "anthropogenic" greenhouse gas emissions.

"It will be interesting to see to what extent states will seek to invoke conflicting obligations identified by the ICJ under international law to justify certain state-conduct towards foreign investors," wrote Schellenberg Wittmer counsel Greg Lourie and trainee lawyer Isabela Keuschnigg in an August blog post.

Climate change-related commercial disputes have also been arising due to the opposite problem — the revocation of benefits and subsidies for green energy projects, particularly in the U.S.

"I think the cancellation of tax credits is almost certainly going to lead to disputes with suppliers, post-acquisition disputes, post-transaction disputes involving the sector," said Alexandre de Gramont, a Womble Bond Dickinson partner who leads his firm's international disputes practice. "There's going to be a lot of disruption ... we certainly have clients in the renewable sector who are concerned."

Procedural Innovations

Experts in international arbitration tell Law360 that there have been a number of procedural innovations in arbitration in recent years, a trend that can be expected to expand into the latter half of 2025.

That includes an increasing use of mediation to resolve investor-state claims, a method of dispute resolution that's been quietly percolating for years.

In 2018, the U.N. General Assembly adopted the Singapore Convention on Mediation, an international treaty that enables the cross-border enforcement of mediated settlement agreements. The treaty opened for signatures the following year and is aimed at providing "a much-needed boost to international trade and commerce," Singapore's Law Ministry said at the time. The ministry was involved with promoting the treaty.

A year prior, ICSID hosted a special training course for mediators tailored for investor-state disputes.

Nearly a decade later, with such efforts still flying mostly under the radar, it may be tempting to surmise that the idea of mediation to resolve such disputes won't ever gain much traction. But jumping to that conclusion would be a mistake, according to Foley Hoag's Hioureas.

"I think it takes time," she said. "Having mediation rules in place, having these ongoing discussions, having the Singapore Convention — all these things are helpful in terms of getting states and investors more comfortable with mediating" treaty-based disputes.

"There have been some successful mediations with states, and I think we'll probably see more of it in time," she added, noting that mediation gives parties a more flexible "think outside of the box" approach than arbitration.

Mediation can also prove useful with respect to commercial disputes. Its usage may increase as 2025

comes to a close due to economic uncertainty, which has made people more cautious about bringing a claim right away, according to Sidley Austin LLP partner Yan Zhang.

"There's usually a lot of pre-filing analysis and negotiations privately, and sometimes involving mediators as well," Zhang said. "So that's why, over the last few years, I have definitely seen more mediation taking place as a pre-arbitration filing step. And some of them are very helpful."

Continuing with the trend of arbitration procedures becoming more modernized, experts are expecting institutions and arbitrators to focus increasingly on expedited arbitration. Although the mechanism has been commonly used for several years, there remains a lack of agreement about what such a proceeding should look like, according to Troutman Pepper Locke LLP partner R. Zachary Torres-Fowler.

He noted that the formatting of an expedited arbitration often comes down to a particular arbitrator and their preferences — sometimes leading to a more traditional arbitration format that then proceeds with "a much more compressed timeline, which no one's really happy with," he said.

"So I think there's going to be a real focus — and I do think this is probably going to be something you're going to see in the next, say, six months to 18 months — on expedited arbitration and what expedited arbitrations look like, and what procedures are very effective in expedited arbitrations," Torres-Fowler added.

Continued Evolution of Arbitration Practice

Meanwhile, Torres-Fowler said that he's seeing a shift by certain types of arbitration users away from the traditional dispute resolution centers that include cities like London and Paris toward regional hubs that have spent recent years revamping their own arbitral laws. Jurisdictions like Saudi Arabia and the United Arab Emirates have begun focusing on improving laws relating to commercial arbitration, perhaps in an effort to discourage politically sensitive claims brought against governments under investment treaties, he said.

Related to that trend in the Middle East is a growing number of disputes and arbitration proceedings in a variety of sectors, including construction, infrastructure and energy, according to Linklaters LLP partner Roland Ziadé, the firm's global co-head of international arbitration.

"I see this trend probably increasing in a number of jurisdictions in the Middle East and in the Gulf, mainly Saudi [Arabia], the UAE and Qatar," Ziadé added.

He noted that the atmosphere for arbitration is improving in the region, despite "uncertainties" in how local courts sometimes deal with arbitration-related matters, including enforcing awards.

Fellow Linklaters partner Andrew Battisson echoed Ziadé's comments, adding that, particularly in Dubai, "you're also seeing an increase in nonconstruction related disputes — so your more typical banking, commercial trade-related type disputes."

In the Middle East and beyond, Torres-Fowler pointed to the latest international arbitration survey this year by Queen Mary University of London and White & Case LLP, which includes parties' most preferred arbitral seats — a term that designates the legal jurisdiction under which the arbitration is conducted and may also designate its physical location.

In the survey, "you see cities like Dubai, you see a lot of different cities in China, you see São Paulo, you see Riyadh, you see a lot of different regional hubs coming up as being slightly more common than you would have seen maybe 10 years ago," he said. "I think that's going to increase as jurisdictions become more sophisticated in arbitration, because they see more value in arbitration."

"While I think London and Paris and [other] traditional hubs are going to maintain their prominence among the most common arbitral centers, I think their share of the greater pie may be diminishing slightly to some of these more regional hubs, where you see greater investment and prioritization of those jurisdictions," he added.

Geopolitical Tension

A particularly hot topic among arbitration specialists for the remainder of 2025 will be how political uncertainty, particularly with respect to sanctions, will likely continue to color international disputes.

"We are in a time of, relatively speaking, unprecedented change on a daily and hourly basis in terms of sanctions and geopolitical events," said Crowell & Moring LLP partner Meagan T. Bachman.

She noted that in her practice, she's currently grappling with a constantly evolving sanctions landscape, with countries like the U.S., the U.K. and blocs like the European Union routinely adding or subtracting entities or people from their sanctions lists.

"From my perspective, I think that the shifting sanctions landscape is something that has particular relevance to currently pending arbitration," she said, noting as an example the ways that different countries approach dealing with arbitration costs and legal fees for sanctioned entities. "Everybody involved in the international arbitration world — not just the parties, but also arbitrators, clients and counsel — are going to need to be attuned to developments and changes" in terms of what the rules are and aren't with respect to arbitration costs.

Sidley's Zhang agreed.

"Everybody is learning sanctions law," she said, adding that such considerations include how to represent a sanctioned party and how to enforce a potential award against a sanctioned party. "I think that's really the new homework for a lot of arbitration practitioners."

--Editing by Jay Jackson Jr. and Michael Watanabe.