

Treaty Parties' role in treaty interpretation: joint committees and commissions

Yuliya Chernykh

(based on a book chapter 'Assessing Convergence between International Investment Law and International Trade Law through Interpretative Commissions/Committees: A Case of Ambivalence?' in S Gáspár-Szilágyi, D Behn, M Langford (eds.) *Adjudicating Trade and Investment Disputes: Convergence or Divergence?* (CUP 2020)

Some empirics

- as of 12 October 2017 (out of 2,573 IIAs):

23 IIAs in force

10 Model BITs

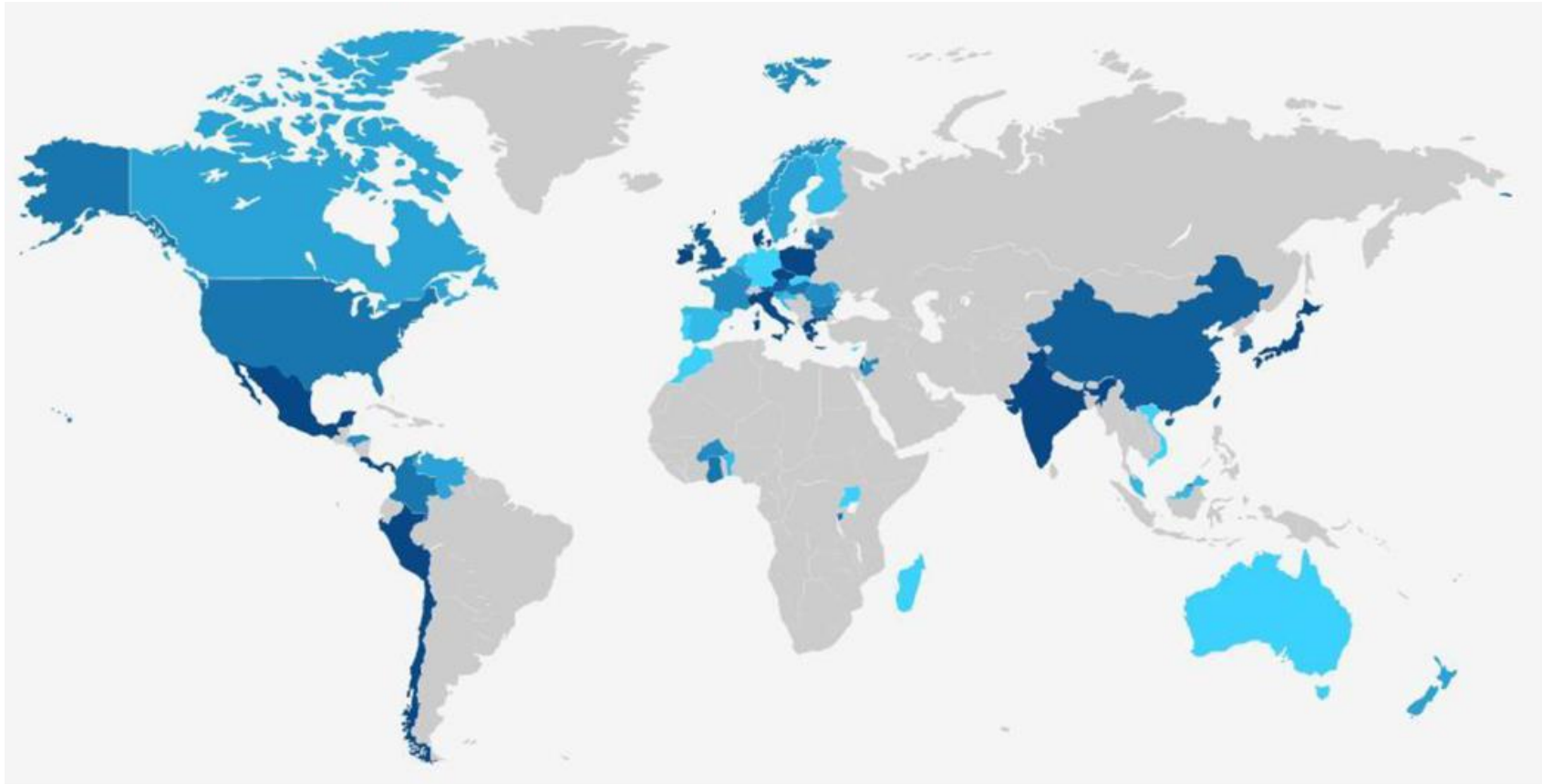
6 signed IIAs and

2 draft IIAs at various stages of approval

- further (not rapid) spread

2017 – 1; 2018 – 6; 2019 – 1

Geographical spread



Interpretative commissions/committees

- Functions
- Composition
- Initiative to trigger interpretation
- Subject-matter of interpretation
- Procedure
- Interpretative methods
- Temporal effect of the issued interpretation



Observations

- **an existent infrastructure** (comparable with *dispute boards* in commercial context)
- **an extraordinary** interpretative exercise
- **not a substitute** to a clear treaty language
- **proper integration needed** within dispute settlement mechanism
 - scope and content of interpretation
 - predictability and transparency
 - temporal effect