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Case Comment

NO WAIVE OUT: LIMITING THE DOCTRINE OF STATE IMMUNITY

NextEra Energy Global Holdings BV v Kingdom of Spain [2026] SGHC 43

[2026] SAL Prac 15

This case comment analyses the recent decision of the General Division of the High Court in *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43, where the court held that state immunity could not be invoked to resist the recognition and enforcement of an International Centre for Settlement of Investments Disputes award in Singapore. In this case comment, the author provides some critical commentary in relation to this case law development, while offering reflections on key takeaways from this case.

LIM Fang-Zhou, Noah[1]
LLB (National University of Singapore) (First Class Honours);
Advocate and Solicitor (Singapore);
Associate (Clifford Chance Pte Ltd).

I. Introduction

1 In *NextEra Energy Global Holdings BV v Kingdom of Spain*[2] ("*NextEra*"), the General Division of the High Court ("General Division") rejected Spain's reliance on state immunity to resist the recognition and enforcement of an International Centre

1 This case comment is written in the author's personal capacity. All opinions expressed herein are entirely the author's own, and all errors and mistakes remain the author's alone. The author is deeply grateful to Chung Sohyun for her helpful comments on an earlier draft of this article, as well as to Elaine Lum and the Academy Publishing team for their excellent copyediting.

2 [2026] SGHC 43.

for Settlement of Investments Disputes ("ICSID") award in Singapore. In doing so, the court held that by acceding to the Convention on the Settlement of Investment Disputes between States and Nationals of other States[3] ("ICSID Convention"), a contracting State ("Contracting State") had submitted to the jurisdiction of the other Contracting States' courts in respect of recognition and enforcement of an ICSID award, providing some clarity in an area of law that had hitherto not been explored by any Singapore court. This case comment briefly summarises the key aspects of the case, while considering its implications for arbitration practitioners in Singapore.

II. Facts

2 The applicants were Dutch investors who commenced an ICSID arbitration against the respondent, Spain, under the Energy Charter Treaty, to which Spain and the Netherlands were parties.[4] After the award was rendered against Spain, it attempted but failed to annul the award before an *ad hoc* annulment committee, and the award consequently became binding on Spain under the ICSID Convention.[5]

3 In Singapore, the Dutch investors brought an application under the Arbitration (International Investment Disputes) Act 1968[6] ("AIIDA") – which implements the ICSID Convention in Singapore[7] – and obtained an order ("Registration Order") for the award and the annulment decision to be registered as if they were judgments of the General Division.[8]

3 Convention on the Settlement of Investment Disputes between States and Nationals of Other States (18 March 1965), 575 UNTS 159 (entered into force 13 November 1968) ("ICSID Convention").
4 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [5]–[6].
5 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [7].
6 2020 Rev Ed.
7 Arbitration (International Investment Disputes) Act 1968, The Schedule, Art 54.
8 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [8].

4 Spain applied to set aside the Registration Order on the grounds that:[9]

(a) it had state immunity under s 3 of the State Immunity Act 1979[10] ("SIA"), which provides that a state is immune from the jurisdiction of the Singapore courts except as provided in the SIA; and

(b) even if it had no state immunity, the Registration Order should be set aside in the interests of justice.

5 In response, the Dutch investors argued that Spain did not have state immunity pursuant to ss 4 and 11 of the SIA:[11]

(a) Section 4(1) of the SIA provides that a State is not immune in respect of proceedings where it has submitted to the jurisdiction of the Singapore courts ("Submission Exception"), and it was argued that Spain had submitted to the Singapore courts' jurisdiction by acceding to the ICSID Convention.

(b) Section 11(1) of the SIA provides that where a State has agreed in writing to submit a dispute to arbitration, the State is not immune as respects proceedings which relate to arbitration ("Arbitration Exception"). Spain had agreed to arbitrate the disputes with the Dutch investors, which resulted in an award.

6 The Dutch investors also submitted that it would not be in the interests of justice to set aside the Registration Order.[12]

III. Decision of the General Division of the High Court

7 In dismissing Spain's application, the court held that the Submission Exception applied.[13] Referring to Art 54 of the ICSID Convention, which obliges each Contracting State to "recognise

9 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [2] and [9].
10 2020 Rev Ed.
11 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [3(b)].
12 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [4].
13 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [74].

an award rendered pursuant to [the] Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State",[14] the court held that each Contracting State had submitted to the jurisdiction of the other Contracting States' courts for the purpose of recognition and enforcement. Accordingly, by entering into the ICSID Convention, Spain had expressly submitted to the jurisdiction of the courts of every other Contracting State in respect of proceedings to recognise or enforce an ICSID award.[15]

8 The court went on to observe that such a conclusion was consistent with the decisions of the High Court of Australia in *Kingdom of Spain v Infrastructure Services Luxembourg SARL*[16] ("*Spain v Infrastructure Services*") and the English Court of Appeal in *Infrastructure Services Luxembourg SARL v the Kingdom of Spain*,[17] both of which involved the recognition and enforcement of an ICSID award against Spain, as well as the decisions of the Federal Court of Australia[18] and the US District Court for the District of Columbia[19] in relation to the same award that was the subject of the proceedings in *NextEra*.[20] It was noted that the courts in each of these jurisdictions had consistently interpreted Art 54 of the ICSID Convention as a waiver of adjudicative immunity by each Contracting State.[21]

9 The court emphasised that the ICSID Convention creates "a self-contained system that is not subject to review by national courts".[22] Hence, a dissatisfied party who has failed to annul the ICSID award cannot thereafter challenge the "binding" nature of

14 Arbitration (International Investment Disputes) Act 1968, The Schedule, Art 54.
15 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [71].
16 (2023) 275 CLR 292.
17 [2024] EWCA Civ 1257.
18 *Blasket Renewable Investments LLC v Kingdom of Spain* [2025] FCA 1028.
19 *NextEra Energy Global Holdings BV v Kingdom of Spain* Civil Action No 19-cv-01618.
20 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [20].
21 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [35] and [40].
22 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [72], citing *The Republic of India v Deutsche Telekom AG* [2024] 1 SLR 56 at [123].

the award[23] by disputing the ICSID tribunal's jurisdiction before a domestic registration/enforcement court;[24] on the other hand, the domestic court asked to recognise and enforce an ICSID award was restricted to ascertaining the award's authenticity.[25]

10 While the court also went on to find that the Arbitration Exception in s 11 of the SIA also applied,[26] this was strictly in *obiter*, given that the court's finding on the applicability of the Submission Exception sufficed to dispose of the issue on state immunity.[27]

11 Turning finally to Spain's argument that it was in the "interests of justice" to set aside the Registration Order,[28] the court rejected this argument, holding that public policy was not a recognised ground for challenging an ICSID award.[29] The court observed that the contradictory obligations that Spain faced were a result of the treaties that it had entered into,[30] and it was not for the Singapore court to relieve a State of the consequences flowing from the treaty obligations that it had entered into.[31] In emphasising that Singapore, as a Contracting State to the ICSID Convention, had agreed under Art 54 to recognise and enforce ICSID awards, and implemented this by passing the AIIDA,[32] the court stated that it would be acting contrary to the ICSID Convention and the AIIDA (and thus acting against the interests of justice) if it were to accede to Spain's request to set aside the Registration Order.[33]

23 See Art 53 of the ICSID Convention.
24 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [51] and [72].
25 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [49] and [51].
26 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [76].
27 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [75].
28 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [127].
29 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [128].
30 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [130].
31 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [131].
32 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [132].
33 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [133]–[134].

IV. Analysis and commentary

A. Immediate implications

12 Enforcement proceedings in relation to ICSID awards against a State commonly trigger claims of state immunity. In this regard, Art 55 of the ICSID Convention explicitly preserves state immunity from the execution of awards (*ie*, the seizure of state assets) unless a State consents or has waived execution immunity:[34]

> Nothing in Article 54 shall be construed as derogating from the law in force in any Contracting State relating to immunity of that State or of any foreign State from execution.

13 Notably, however, the Convention is silent on the issue of immunity from jurisdiction for recognition and enforcement actions, which has led to proceedings on whether a State can claim immunity to prevent a court from recognising or entering judgment on an ICSID award, as was the case in *NextEra*. Such developments are not limited to Singapore – indeed, as observed by the court in *NextEra*, similar cases have been brought in a number of jurisdictions across the world,[35] including Malaysia, Australia, New Zealand, the UK and the USA.

14 In holding that ICSID Contracting States are deemed to have waived their "adjudicative" immunity with respect to the recognition and enforcement of ICSID awards by other Contracting States,[36] the court's decision in *NextEra* confirms that commonly raised defences by States against investor–state awards do not hold water in the Singapore courts, thus removing a significant procedural hurdle at the recognition and enforcement stage. In practical terms, this should result in more efficient proceedings, allowing ICSID award creditors to focus their efforts on the execution of awards rather than risk being bogged down with procedural objections before the courts.

34 Arbitration (International Investment Disputes) Act 1968, The Schedule, Art 55.

35 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [21]–[67].

36 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [71].

15 Following *NextEra*, arguments to the effect that the underlying arbitration agreement is invalid will likely also be given short shrift by the courts, as such matters are considered to be within the exclusive remit of the *ad hoc* tribunal in ICSID's "self-contained" dispute resolution process which is "not subject to review by national courts".[37] Thus, where an aggrieved party has tried and failed to annul an ICSID award, it cannot thereafter challenge the binding nature of the award by disputing the jurisdiction of the ICSID tribunal before a national court. This is intuitively sensible – where a party is understood to have submitted to the jurisdiction of the ICSID system, and given that this system is understood to be a fully-enclosed ecosystem, it does not thereafter lie in that party's mouth to claim that they are entitled to recourse which exists beyond the system.

16 Further, public policy arguments, such as those couched in "interests of justice" terms (as was the case in *NextEra*), are unlikely to succeed before the Singapore courts. Notably, Chief Justice Sundaresh Menon recognised in a 2019 speech that courts are "wary of relying on [public policy] openly because it is often seen as a 'cover for uncertain reasoning'".[38] Such an acknowledged judicial reticence to rely on public policy, however, does not mean that the courts are afraid of *engaging* with the merits of such public policy-based reasoning, as is clearly seen in *NextEra*. In this instance, Spain had contended that to recognise and enforce the award would be against the interests of justice as the award "clearly amount[ed] to a contravention of EU law and Spain's constitutional arrangements with the EU",[39] and would thus be contrary to Singapore's public policy.

17 Such arguments were ultimately given short shrift by the court, which noted that Singapore's agreement, pursuant to

37 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [72], citing *The Republic of India v Deutsche Telekom AG* [2024] 1 SLR 56 at [123].

38 Chief Justice Sundaresh Menon, Supreme Court of Singapore, "Taming the Unruly Horse: The Treatment of Public Policy Arguments in the Courts", lecture (19 February 2019) <https://www.judiciary.gov.sg/docs/default-source/news-docs/public-policy-lecture---19feb2019.pdf> (accessed 19 April 2026), citing James D Hopkins, "Public Policy and the Formation of a Rule of Law" (1971) 37 *Brooklyn Law Review* 323 at 332–333.

39 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [127].

Art 54 of the ICSID Convention, to recognise and enforce ICSID awards, meant that to set aside the Registration Order for the award would be *truly* contrary to the interests of justice, and against Singapore's public policy.[40] Indeed, the court observed that there were cogent reasons militating against acceding to Spain's request, including that:[41]

> (a) to do so would run counter to the principle that the courts ought to "always strive to give effect to Singapore's international obligations within the strictures of [Singapore's] Constitution and laws"; and
>
> (b) the court was bound to implement the will of Parliament as embodied in domestic legislation, to the extent that such legislation was not incompatible with the Constitution.

18 This decision solidifies Singapore's reputation as a pro-arbitration, pro-enforcement forum for investor-state awards, and confirms that the Singapore courts will give effect to ICSID awards with minimal judicial interference. Such a development also has implications for the strategy to be adopted by counsel for award creditors and debtors alike. Practitioners acting for creditors of ICSID awards can take confidence in the approach adopted by Singapore, where such awards are, rightly, regarded as final and non-reviewable, with the courts' scrutiny limited to ensuring that the relevant procedural requirements for authentication and recognition are met. This is a particularly important consideration when devising a strategy for enforcing and executing such awards. As observed by the court in *NextEra*, Spain's Intra-EU Objection "has been accepted by EU courts, but it has generally been rejected by non-EU courts and by investment tribunals".[42] It is thus crucial to assess the extent to which the jurisdictions targeted for enforcement and execution proceedings are willing to uphold international obligations to enforce ICSID awards; the relative ease of recognition and enforcement proceedings in pro-enforcement jurisdictions such

40 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [134].
41 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [133].
42 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [105].

as Singapore, Australia, and the UK, should now be a key factor in any strategy discussion.

19 Conversely, counsel for award-debtor States should recognise that, following *NextEra* and similar cases in pro-arbitration, pro-enforcement jurisdictions across the world, there is increasingly limited utility in seeking to launch a collateral attack on an ICSID award through arguments relying on state immunity. The focus should thus naturally shift from reliance on raising such procedural roadblocks towards effective resolution strategies and asset protection measures which are within the bounds of law.

20 In this connection, it is important to be clear about what the decision in *NextEra* covers, and more importantly, what it does not. The decision confirms that state immunity objections are unlikely to succeed in respect of recognition and enforcement proceedings for ICSID awards in Singapore, but it does *not* limit the scope of such objections in respect of *execution* proceedings, which is a legally distinct issue. In other words, even where an ICSID award creditor manages to obtain recognition and enforcement of their award, the actual recovery of the award sum against the assets of the debtor hinges on the process of execution against the debtor's assets. In *Spain v Infrastructure Services*, the High Court of Australia observed the key distinction between the various terms:[43]

> (a) Recognition refers to the court's determination and acceptance of an award's "binding character and its preclusive effects".
>
> (b) Enforcement refers to the process through which an award is "reduced to a judgment of a court that enjoys the same status as any judgment of that court".

43 *Kingdom of Spain v Infrastructure Services Luxembourg SARL* (2023) 275 CLR 292 at [45], citing with approval the American Law Institute's "Restatement of the Law: The US Law of International Commercial and Investor-State Arbitration" (proposed final draft, 24 April 2019).

(c) Execution refers to the means by which a judgment enforcing an award is given effect, including measures taken against the property of the judgment debtor.

21 This aspect of the court's reasoning was referred to by the General Division in *NextEra*, albeit in passing.[44] However, it is suggested that such a distinction is helpful in allowing one to understand the implications of the decision. While *NextEra* and decisions in a similar vein might facilitate the recognition and enforcement of ICSID awards as a judgment of the relevant court of the enforcement State, any subsequent attempt to *execute* this judgment against state-debtor's assets will continue to need to navigate the scope of the SIA (and equivalent legislation in other jurisdictions), as well as the exceptions therein. Award creditors will therefore need to thoroughly investigate the extent to which a state-debtor holds *commercial* assets within the enforcement jurisdiction, or whether any waiver of execution immunity is available in respect of such assets.

B. Influence of UK case law

22 It is worth noting that the bulk of the High Court's analysis on the s 4 (Submission Exception) issue in *NextEra* was largely influenced and shaped by the reasoning adopted by foreign courts in similar cases. Given the court's recognition that the provisions under the UK State Immunity Act 1978[45] are "the equivalent of ss 4 and 11 of Singapore's SIA",[46] the reasoning of the English courts would thus be useful to the extent that it may help to flesh out points which may not have been considered in similar detail by the Singapore court in *NextEra*. While the General Division referred approvingly to the reasoning of the English Court of Appeal in *Infrastructure Services Luxembourg SARL v the Kingdom of Spain*,[47] that case has since been further considered by the UK Supreme Court,[48] and in this connection, it

44 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [24].
45 c 33 (UK).
46 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [31].
47 [2024] EWCA Civ 1257.
48 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9.

is suggested that there are three aspects of the reasoning from the UK Supreme Court which helpfully complement the reasoning proffered in *NextEra*.

23 First, the decision of the UK Supreme Court dealt with the relevant test to determine whether any waiver of immunity had been effected. This was an interesting issue; as noted by the court, while parties had initially agreed that it was "common ground" that any waiver of immunity had to be express,[49] there were in fact two contrasting approaches put forth by the parties:

> (a) On the one hand, counsel for the appellant States contended that state immunity was "a matter of such fundamental importance", such that any agreement to waive it must be express, requiring the explicit use of words such as "waiver" or "submission". Such an approach was informed by the dissenting opinion of Lord Goff in *R v Bow Street Metropolitan Stipendiary Magistrate*,[50] which had, up until then, been considered as reflecting the position under English law.
>
> (b) On the other hand, counsel for the respondent investors contended that such explicit use of the words "waiver", "submission" or "immunity" was not strictly required – all that was necessary was that an application of the interpretive principles under the Vienna Convention on the Law of Treaties[51] would result in such a meaning being made clear based on the words used by the parties.

24 Following a detailed and reasoned review of the authorities, the UK Supreme Court held that it was unnecessary to adopt Lord Goff's "narrow approach to express consent",[52] and that what ultimately mattered was that consent was expressed in

49 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [43].
50 [2000] 1 AC 147.
51 Vienna Convention on the Law of Treaties (23 May 1969), 1155 UNTS 331 (entered into force 27 January 1980).
52 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [63].

a "clear and unequivocal" manner.[53] Finding in favour of the respondents' proposed approach, the court held that whether a waiver of immunity by treaty was established was ultimately to be determined via "an exercise of treaty interpretation in accordance with the treaty's governing law, public international law", where the words used must "necessarily lead to the conclusion that the state has submitted to the jurisdiction".[54] Such a finding by the UK Supreme Court serves as a useful complement for Singapore's jurisprudence – while the court in *NextEra* ultimately concluded that Spain had submitted to the jurisdiction of the court in relation to ICSID recognition or enforcement proceedings,[55] the court did not decide the relevant threshold necessary to establish such submission or waiver of immunity.

25 Second, the UK Supreme Court went on to interpret Art 54 of the ICSID Convention. The court observed that as a matter of ordinary language, each Contracting State had agreed, pursuant to Art 54(1), to not only recognise and enforce awards, but also that awards to which that State was a party would be recognised and enforced in other Contracting States which had undertaken the same obligation.[56] Given that such obligations were undertaken on a "mutual and reciprocal basis", the court held that this "necessarily involve[d] an *express acceptance*" [emphasis added] by each contracting state that if an ICSID award was rendered against it, then every other State would exercise jurisdiction to recognise and enforce the pecuniary obligations imposed by that award as if it were a final judgment of a court in that State.[57] As such recognition and enforcement constitutes the end result of the adjudicative process, the logical corollary of this, accordingly, was that immunity must necessarily have been overcome.[58]

53 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [69].
54 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [69].
55 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [71].
56 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [82].
57 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [89] and [96].
58 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [96].

C. Looking around corners – state immunity for New York Convention proceedings

26 Where a State is involved in arbitral proceedings, it is perhaps to be expected that issues of state immunity and waiver will arise in the course of proceedings. While the decisions of the General Division in *NextEra* and the UK Supreme Court in *Spain v Infrastructure Services* were in relation to ICSID awards, such developments may yet have an outsized influence beyond the ICSID Convention.

27 In the UK, the Court of Appeal is soon expected to decide the issue of whether a State, by virtue of its ratifying the New York Convention,[59] should be deemed to have waived its adjudicative immunity in relation to recognition proceedings for an arbitral award under the Convention. In *CC/Devas (Mauritius) Ltd v Republic of India*,[60] the High Court held that India's ratification of the New York Convention did not, *in and of itself*, constitute a waiver of state immunity.[61] In so deciding, the court found that:

> (a) there was no indication from the drafting history of the New York Convention, or commentary on the same, that the drafters had intended to exclude immunity-based defences in enforcement actions against States;[62]
>
> (b) the wording and context of the New York Convention could be distinguished from the ICSID Convention, and did not support the same result;[63] and accordingly
>
> (c) India's ratification of the Convention was not, on its own, a clear and express waiver of immunity.[64]

28 The decision of the English High Court has since been appealed, with the hearing for the appeal taking place on 24 March

59 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (10 June 1958), 330 UNTS 38 (entered into force 7 June 1959).
60 [2025] 1 WLR 4287.
61 *CC/Devas (Mauritius) Ltd v Republic of India* [2025] 1 WLR 4287 at [107].
62 *CC/Devas (Mauritius) Ltd v Republic of India* [2025] 1 WLR 4287 at [76]–[77].
63 *CC/Devas (Mauritius) Ltd v Republic of India* [2025] 1 WLR 4287 at [77]–[78].
64 *CC/Devas (Mauritius) Ltd v Republic of India* [2025] 1 WLR 4287 at [87].

2026,[65] and the judgment of the Court of Appeal is expected in the latter half of the year. At this juncture, it is suggested that the appeal is unlikely to succeed, given the guidance provided by the courts on the clear differences between the ICSID Convention on the one hand and the New York Convention on the other. In *Spain v Infrastructure Services*, the UK Supreme Court noted that a "notable feature" of the ICSID Convention was its "self-contained or closed scheme for producing binding awards",[66] where contracting States were prohibited from refusing recognition or enforcement of an award on grounds covered by the challenge provisions in the ICSID Convention itself, or on the basis of jurisdiction and competence.[67] This fully self-contained nature of the ICSID Convention "differs significantly" from the New York Convention,[68] given that the latter provides that awards remain "subject to the rules for enforcement and challenge in the courts of the country in which enforcement is sought",[69] and gives "a detailed list of grounds on which recognition and enforcement may be refused".[70] Indeed, Schreuer observes that:[71]

> The system of review under the [ICSID] Convention is self-contained and does not permit any external review. This principle also extends to the stage of recognition and enforcement of ICSID awards … This is in contrast to non-ICSID awards, including Additional Facility awards, which may be reviewed under domestic law and applicable treaties. In particular, the New York Convention gives a detailed list of grounds on which recognition and enforcement may be refused.

65 "Summary Case Details for CA-2025-001365", *Justice UK* <https://casetracker.justice.gov.uk/getDetail.do;jsessionid=D553326B7D1B96A8F170BFAC485A89DE?case_id=CA-2025-001365> (accessed 19 April 2026).

66 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [98].

67 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [99].

68 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [98].

69 *The Republic of India v Deutsche Telekom AG* [2024] 1 SLR 56 at [123], cited in *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [48].

70 *Micula v Romania* [2020] 1 WLR 1033 at [68], cited in *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [49].

71 *Schreuer's Commentary on the ICSID Convention* (Stephan W Schill *et al* eds) (Cambridge University Press, 3rd Ed, 2022) at pp 1498–1499.

29 Following an extensive review, Schreur further observes that the drafting history of the ICSID Convention:[72]

> … shows that domestic authorities charged with recognition and enforcement have no discretion to review the award once its authenticity has been established. Not even the *ordre public* (public policy) of the forum may furnish a ground for refusal.

30 On this basis, it should be abundantly clear that the New York Convention operates on a different basis from the ICSID Convention, and accordingly, awards issued under the respective Conventions ought to be treated differently. Indeed, the Australian High Court has since held that ratification of the New York Convention does *not* automatically constitute a waiver of state immunity, adopting similar reasoning to that set out above.[73] Whatever the English Court of Appeal ultimately decides, developments in this area are surely to be of keen interest to arbitration practitioners in Singapore, in so far as such decisions may influence the development of jurisprudence here.

V. Concluding reflections

31 While it remains to be seen whether the General Division's decision in *NextEra* will be appealed, the court's robust pro-enforcement approach in *NextEra* is to be commended in so far as it is commercially sensible and logically defensible. It confirms that Singapore's courts are prepared to facilitate the swift conversion of ICSID awards into local judgments in accordance with Singapore's international obligations under the AIIDA, that parties to an arbitration will be held to their agreement, and that any dilatory tactics based on state immunity or public policy will be rejected by the courts.

32 However, it is also noteworthy that the decision of the Singapore court in *NextEra* is consistent with the approach taken by the courts in various jurisdictions, as discussed above. As the world becomes increasingly globalised, it is unsurprising

72 *Schreuer's Commentary on the ICSID Convention* (Stephan W Schill *et al* eds) (Cambridge University Press, 3rd Ed, 2022) at p 1500.
73 *CCDM Holdings, LLC v The Republic of India* [2026] HCA 9.

to see developments in one jurisdiction influence and shape developments in another, but it is suggested that this is *particularly* important for international treaties and conventions. As recognised by the courts:[74]

> … it is well-established that the text of an international treaty or convention is intended to be given the same uniform meaning by all the states which become parties to it. This means that so far as possible the text should be interpreted in a uniform manner and that regard should be had to how it has been interpreted by the courts of different countries …

33 Indeed, in *NextEra*, the General Division cited the High Court of Australia in *Spain v Infrastructure Services* for the proposition that "[t]he text of an international agreement or treaty … should have the same meaning for all of the States which are party to it".[75] These common observations reflect concerns which extend beyond Singapore. It is a *global* concern that international instruments should be interpreted and understood in a universally consistent manner, in as much as this is possible. Utilising such a common lens of interpretation is important in so far as it ensures consistency in principle and in obligations – it would be strange for two signatories to the same treaty or convention to have different obligations that stem from this same treaty/convention.

34 It is crucial to ensure predictability in defining the scope of parties' obligations, particularly given that such predictability and legal "stability" are likely to have an outsized impact on influencing inbound capital investment by investors, which is a key concern of the ICSID Convention – indeed, the primary object of ICSID Convention is to "encourage private international investment including by mitigating sovereign risk and providing an investor with the 'legal security required for an investment decision'."[76] To this end, the cross-pollination of jurisprudence,

74 *The Kingdom of Spain v Infrastructure Services Luxembourg SARL; Republic of Zimbabwe v Border Timbers Ltd* [2026] UKSC 9 at [79].

75 *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [36].

76 *Kingdom of Spain v Infrastructure Services Luxembourg SARL* (2023) 275 CLR 292 at [40], cited in *NextEra Energy Global Holdings BV v Kingdom of Spain* [2026] SGHC 43 at [26].

particularly in respect of international law instruments, thus goes a long way in patching up gaps in disparate national laws which might otherwise be capable of being exploited by a recalcitrant award debtor. In this regard, the establishing of a consistent, transnational judicial approach towards interpreting and applying such instruments enhances confidence in arbitration as an effective dispute resolution mechanism for investors and States alike, opening up greater opportunities in an increasingly globalised and connected world.