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Issues relating to the operationalization of the Advisory Centre on International Investment Dispute Resolution – interim secretariat

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I. Introduction

1. Document [A/CN.9/1265](#) contains the summary of the third meeting on the operationalization of the Advisory Centre on International Investment Dispute Resolution (the “Advisory Centre” or the “Centre”), including the recommendations deriving from that meeting (the “AC-OP meeting”) as well as the corresponding updates to the draft Statute of the Advisory Centre (the “Statute”) in chapter IX.
2. This note aims to address the issues relating to the interim secretariat mentioned in document [A/CN.9/1265](#). Document [A/CN.9/1268](#) addresses the location(s) of the Advisory Centre and possible revisions to article 9 of the Statute as well as a draft decision to be adopted by the Commission.

II. The interim secretariat of the Advisory Centre

A. Functions of the interim secretariat

3. The Commission, at its session in 2025, had requested that the AC-OP meeting focus on the anticipated mandate and functions of the interim secretariat of the Advisory Centre ([A/80/17](#), paras. 200–204). Accordingly, the functions to be carried out by the interim secretariat were discussed at the AC-OP meeting, during which it was envisaged that the interim secretariat would perform a wide range of functions ([A/CN.9/1265](#), paras. 58–64).
4. It is envisaged that the interim secretariat would:
 - Conduct outreach activities to promote the Centre and encourage States and region economic integration organizations (REIOs) to become Members, with an aim to expediting the entry into force of the Statute;
 - Organize a signing ceremony for the Statute, if deemed appropriate;
 - Assist the depositary in determining whether the threshold for entry into force of the Statute has been met (for example, with regard to the least developed country (LDC) classification and the anticipated maximum budget percentages, see [A/CN.9/1265](#), footnote 25 and the last bullet point in para. 57);
 - Draft and conduct preliminary negotiations on arrangements to operationalize the Centre, including any host country agreement, a possible relationship agreement with the United Nations, and funding arrangements with potential donors, for consideration by the Governing Committee;
 - Draft an instrument on the privileges and immunities of the Advisory Centre and its staff members as well as a template agreement on privileges and immunities for non-Members obtaining the services of the Centre, for adoption by the Governing Committee;
 - Draft the rules of procedure of the Governing Committee and the Executive Committee, as well as the regulations on the operation of the Centre, including staff and financial regulations, for adoption by the Governing Committee;
 - Prepare the initial annual budget of the Centre, including the assessed financial contribution by each Member in accordance with the Annex of the Statute, for adoption by the Governing Committee;
 - Prepare terms of reference and conduct other administrative tasks to facilitate the appointment of the Executive Director by the Governing Committee;
 - Draft decisions to be adopted by the Governing Committee at its first meeting;
 - Prepare for cooperation and coordination activities with other international and regional organizations, as appropriate;

- Establish or assist in the establishment of a trust fund, possibly administered by the host country of the Centre, which could be used to receive advance membership contributions and voluntary contributions by donors to support the initial operation of the Centre and which would be transferred to the Centre when it becomes fully operational;
- Act as a focal point for communications with the host State(s) of the Centre, as well as among Members of the Centre;
- Convene and service the first meetings of the Governing Committee and the Executive Committee; and
- Conduct any other administrative tasks necessary to operationalize the Centre.

5. At the AC-OP meeting, it was expected that the interim secretariat would function prior to and after the entry into force of the Statute. More specifically, it was suggested that the functions of the interim secretariat could begin upon the adoption of the Statute by the General Assembly and continue until the permanent secretariat of the Advisory Centre becomes fully operational (including the appointment of the Executive Director), which would ideally occur shortly after the first meeting of the Governing Committee ([A/CN.9/1265](#), para. 64). The expected duration of the interim secretariat functions should be clearly set forth, as this would impact the contractual terms of its staff members as well as the necessary budget for its operation.

6. The Commission may wish to recall that, in requesting its secretariat to explore possible means for it to function as the interim secretariat of the Advisory Centre, it was agreed that this should be without any budget implications for the United Nations and without detriment to the provision by the secretariat of services to the Commission as a whole ([A/80/17](#), para. 203).

7. Accordingly, should the Commission wish its secretariat to carry out the interim secretariat functions of the Centre, it would need to request the Secretary-General of the United Nations to function as the interim secretariat of the Centre through the International Trade Law Division (ITLD) of the Office of Legal Affairs (OLA). This would be subject to the condition that the United Nations would receive the necessary voluntary contributions allowing it to undertake such functions (see paras. 14–19 below).

B. Possible structure of the interim secretariat and resource implications

8. Although the anticipated functions of the interim secretariat were discussed at the AC-OP meeting, other issues, including the possible structure and composition of the interim secretariat, the resource implications and the sources of financing, were not fully considered. The following provides a notional structure of the interim secretariat and its resource implications.

9. For example, if ITLD was requested to serve as the interim secretariat and to conduct the functions listed in paragraph 4 above, it could do so with three additional posts: one Legal Officer (P-4), one Associate Legal Officer (P-2), and one Administrative/Information Technology Assistant (G-6). These staff members would report to the Director of ITLD. While the terms of reference would depend largely on the functions to be carried out, the following sets out examples of the responsibilities for each post.

10. The Legal Officer (P-4) would be responsible for:

- Functioning as the team leader responsible for the operationalization of the Centre and carrying out the identified functions of the interim secretariat (see para. 4 above);
- Representing the interim secretariat in consultations and negotiations, including with the host State(s);

- Reporting on the activities of the interim secretariat through appropriate channels;
- Engaging with States and REIOs to promote the Centre and the entry into force of the Statute;
- Engaging with potential donors to raise funds for the initial operation of the Centre;
- Drafting instruments and decisions for consideration or adoption by the Governing Committee; and
- Fulfilling secretariat functions for the first meetings of the Governing Committee and the Executive Committee.

11. The Associate Legal Officer (P-2) would be responsible for:

- Assisting the team leader in carrying out the functions of the interim secretariat (see para. 4 above);
- Conducting legal research and analysis with regard to the instruments and decisions to be prepared, including relevant rules and regulations;
- Preparing background papers and promotional material; and
- Maintaining a database of relevant information and the website of the Centre.

12. The Administrative/Information Technology Assistant (G-6) would be responsible for:

- Providing administrative and logistical support for meetings, consultations and negotiations;
- Providing support for the preparation of briefing materials;
- Providing assistance with the establishment and management of a trust fund to support the initial operation of the Centre;
- Coordinating travel, scheduling and logistical arrangements;
- Maintaining records and databases relating to the activities of the interim secretariat, including any financial contributions;
- Liaising with United Nations administrative services as needed; and
- Providing other administrative support as required for the functioning of the interim secretariat.

13. In addition to the above-mentioned human resources, it is anticipated that the interim secretariat would require budget for its day-to-day operations, which may include contractual services (e.g. translation of documents and ICT services), supplies and materials, furniture and equipment as well as travel-related costs.

14. On the assumption that the interim secretariat would be located in Vienna, where ITLD is located, the following provides an estimate of the required resources for the operation of the interim secretariat. The expenditures would be subject to programme support costs of 13% as the interim secretariat would be financed through extrabudgetary resources.

15. The total budget for the interim secretariat per annum would amount to USD 707,154, inclusive of the 13% project support costs.

	<i>Annual estimate (USD)</i>
Posts (1 P-4, 1 P-2 and 1 GS)	538,800
Contractual services	20,000
Supplies and materials	2,000
Furniture and equipment	15,000
Travel	50,000
Programme support costs (13%)	81,354
Total	707,154

16. In addition to the direct costs mentioned above, there may be additional resource implications on OLA and other departments or offices providing administrative support to the interim secretariat. Such indirect costs may not be fully recoverable with the 13% programme support costs.

17. While many of the anticipated tasks of the interim secretariat would be directly reported to the governing structure of the Advisory Centre, legal advice might be sought from Office of the Legal Counsel and the General Legal Division of OLA, for example, with regard to the draft relationship agreement with the United Nations, the draft host country agreement with the host governments and the instrument on privileges and immunities of the Advisory Centre and its staff members. The recruitment of staff members would require the support of the One Executive Office and United Nations Office at Vienna (UNOV) or at other locations. And ITLD would need to supervise the staff members in their day-to-day activities and be responsible for the administrative support, including in relation to UNOV for travel as well as personnel matters.

18. The Commission should take note of all such resource implications and possible limitations arising therefrom, in particular to respond to its request that the interim secretariat functions without any budget implications for the United Nations. It is also likely that the parameters for providing interim secretariat services would change over time. For example, the cost estimates for the staff members will change if they were to be stationed in a different country (for example, the host country). At the same time, this could incur additional costs for administration and for reporting within OLA.

19. Lastly, the receipt of sufficient voluntary contributions would be a critical condition for OLA/ITLD to provide the interim secretariat functions. Depending on the anticipated contributions, the tasks to be formed and the corresponding budget might need to be adjusted.

C. Establishment of trust funds

20. Article 8(5) of the Statute of the Advisory Centre foresees the setting up of a trust fund for the purposes of receiving and managing the financial contributions and fees referred to in that article. During the AC-OP meeting, references were also made to the use of a trust fund for receiving voluntary contributions to the Advisory Centre, which would be transferred to the Advisory Centre once the Statute enters into force and the Centre commences operations. The possibility of establishing the trust fund outside the United Nations was also mentioned, for example, one administered by the host country of the Centre.

21. At the AC-OP meeting, it was also explained that a trust fund used for the operation of the interim secretariat would be distinct from a trust fund used to receive voluntary contributions for the operation of the Advisory Centre. This would be particularly so if ITLD were to function as the interim secretariat, as the financial resources for the interim secretariat would need to be channelled to a trust fund administered by the United Nations. Such resources would cover the costs arising from the interim secretariat and any other costs incurred during its operation.

22. For example, the ITLD operates two trust funds as the UNCITRAL secretariat – one for UNCITRAL symposiums and another to grant travel assistance to developing countries that are members of UNCITRAL (see [A/CN.9/1250/Add.9/Rev.1](#)). Both trust funds are extrabudgetary resources and are based on voluntary contributions by States and other entities. For example, the operation of the UNCITRAL Regional Centre for Asia and the Pacific utilizes the trust fund for UNCITRAL symposiums (which has broad terms of reference) to finance the staff members of the Regional Centre and its activities through a contribution earmarked for such purpose.

23. In summary, the Commission may wish to request its secretariat to examine how to establish the different types of trust funds, including in a way similar to those mentioned above. This would need to take into account the fact that the Advisory Centre would not be a body of the United Nations and that if the interim secretariat functions were to be carried out by ITLD, it should be without any programme budget implication on the United Nations and without impact on the ability of ITLD to fulfil its role as the UNCITRAL secretariat. Such terms and conditions would need to be carefully incorporated into the terms of reference of the trust funds. There may be certain limitations in ITLD administering trust funds established outside the United Nations.

24. Subject to the consideration of the Commission, the terms of reference for any trust fund could be prepared and presented to the General Assembly along with the Statute. This would depend on whether the Secretary-General of the United Nations would be expected to, and agrees to, carry out the functions of the interim secretariat. This would also take into account any voluntary contribution anticipated to support the interim secretariat functions.
