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Dear representatives of member States of UNCITRAL,

On 19 August 2020, the member States of UNCITRAL adopted a decision on the format, officers and methods of work of the UNCITRAL working groups during the coronavirus disease 2019 (COVID-19) pandemic (the “Decision”, see document [A/CN.9/1038](#)). According to paragraph 3 of the Decision, I and Ms. Natalie Yu-Lin Morris-Sharma (Singapore) have the honour of continuing our roles respectively as the chair and the rapporteur at the upcoming 39th session of Working Group III (Investor-State Dispute Settlement Reform), scheduled to be held from 5 to 9 October 2020. We also hope to facilitate further deliberations between that session and the 40th session scheduled in the first half of 2021, so that the pandemic does not disrupt the progress that the Working Group has made so far.

At the 39th session, the Working Group is expected to continue its consideration of the following reform options (which had been scheduled for our April 2020 session): (i) dispute prevention and mitigation as well as other means of alternative dispute resolution (A/CN.9/WG.III/WP.190); (ii) treaty interpretation by States parties (A/CN.9/WG.III/WP.191); (iii) security for costs and means to address frivolous claims (A/CN.9/WG.III/WP.192); (v) multiple proceedings including counterclaims (A/CN.9/WG.III/WP.193); (vi) reflective loss and shareholder claims based on joint work with the Organization for Economic Cooperation and Development (A/CN.9/WG.III/WP.170); and (vi) a multilateral instrument on ISDS reform (A/CN.9/WG.III/WP.194).

I have been informed that arrangements are being made by the Secretariat to allow delegations to participate in the session in person at the Vienna International Centre and remotely via an online platform, Interprefy. This being said, in light of the travel restrictions, Ms. Morris-Sharma and I will unfortunately not be able to take part in the session in person. I would encourage those representatives who similarly face travel restrictions to participate remotely so that the Working Group can make progress.

As noted in paragraph 2 of the Decision, I would also urge delegations to make written submissions in advance of the session to facilitate the discussions. Considering that the Decision was only taken recently and the Working Group session is only a month away, it might not be feasible to have the submissions translated into the other official languages of the United Nations. Therefore, I have requested that the Secretariat make all such submissions available on the Working Group III website in the format and the language they are received. The rapporteur and I will make efforts to ensure that such written submissions are adequately reflected in our deliberations and in the summary.

In accordance with paragraph 4 of the Decision, I will take steps to ensure an inclusive and transparent approach and adjust the pace and organization of the session to accommodate remote participation, especially as delegations may face technological difficulties. Considering the limited time

allocated for the session, I would urge delegations to make concise interventions not exceeding five (5) minutes on a specific topic and also to make use of the chat and other functions available on Interprefy. This will ensure that we make efficient use of the resources available to the Working Group.

The provisional agenda for the session ([A/CN.9/WG.III/WP.198](#)) had been prepared prior to the Decision and will need to be revised. According to paragraph 2 of the Decision, there will be no election of officers for the session (Item 2 of the provisional agenda). Pursuant to paragraph 6 of the Decision, the rapporteur and I will prepare a draft summary reflecting the deliberations and any conclusions reached during the session (the “Summary”), which will be circulated to the delegations for comments (Item 5). That draft Summary will be presented to you for comments and my hope is that the Working Group will be satisfied with the draft and will be willing to adopt it as its report to the Commission at its fifty-fourth session in 2021.

I propose that we revise the provisional agenda accordingly, and if I do not receive any objection or alternative proposals by 25 September 2020, the agenda will be considered adopted at the beginning of the session on 5 October (Item 3).

As to the organization of the session, I hope that the following arrangements, made in consultation with the Secretariat in the light of the means currently available, will be agreeable to you.

- Two two-hour meetings per day will be held from Monday, 5 October to Friday, 9 October.
- The meeting hours will be 11:00–13:00 and 15:00–17:00 Vienna time (Central European Summer Time).
- As a number of the delegations participating remotely will be new to the Interprefy platform, the first meeting on Monday 5 October will be partly dedicated to video/audio/connection testing and possibly the adoption of the agenda. I would strongly urge delegations to make use of this opportunity to avoid delays during the deliberations. I would also recommend that delegations have adequate equipment ready (including a proper microphone) and ensure appropriate bandwidth when making their intervention (or if necessary, to use only audio).

Please feel free to convey all your comments on the above to the secretary of the Working Group (Ms. Corinne Montineri, corinne.montineri@un.org) copying myself (Shane.Spelliscy@international.gc.ca) and the rapporteur (Natalie.MORRIS-SHARMA@agc.gov.sg). I count on your constructive feedback despite such a short notice and on your kind cooperation.

Yours sincerely,



Shane Spelliscy
Chair
UNCITRAL Working Group III