

# UNCITRAL Working Group III (ISDS reform)

## Status of work

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1. Initial drafts for comments
2. Initial drafts in preparation
3. Upcoming events
4. Resource requirements and workplan
5. Excerpts of the workplan: Years 2021 and 2022

# 1 Initial Drafts for comments



## Establishment of an advisory centre

- Initial draft (2 documents) on services, beneficiaries, costs and financing
- For comments until 15 July 2021

## Regulation of third-party funding

- Initial draft for comments until 30 July 2021

## Draft Code of Conduct for Adjudicators Version Two

- Version Two of the draft for comments
- First Reading in 41<sup>st</sup> session in November 2021

## Implementation and Enforcement of the Code of Conduct

- Draft note for comments
- Envisaged for discussion in 41<sup>st</sup> session in November 2021

## 2 List of initial drafts in preparation

\* Expected release dates will be added in due course



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Appellate mechanism

Cost of establishing a permanent body

Damages

- Expected release of the initial draft: end of June 2021

Dispute prevention and mitigation

Enforcement of decisions by a court or appellate body

Mediation

- Expected release of the initial draft: end of June 2021

Multilateral Investment Court

Procedural rules reform and cross-cutting issues

Selection and appointment of arbitrators

- Existing paper on the selection and appointment of ISDS tribunal members, to be updated as needed

Treaty interpretation

# 3 Upcoming events



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Date	Topic	Format
7 June 2021	Draft code of conduct, Version Two	Informal Meeting with the ICSID Secretariat
14-16 June 2021	Multilateral advisory centre	Informal Meeting
<b>12 – 16 July 2021</b>	<b>Reports A/CN.9/1044, A/CN.9/1050, A/CN.9/1054 and document A/CN.9/1063 on request for additional resources</b>	<b>54th Commission Session</b>
26 August 2021 (tbc)	Damages	Webinar organized with with Academic Forum
2-3 September 2021	Procedural rules reform – topics tbc	Intersessional Meeting hosted by the Republic of Korea (online)
15 September 2021 (tbc)	Shareholder claims and reflective loss	Informal Meeting (jointly with OECD)
23-24 September 2021	Multilateral permanent investment court	Informal Meeting
20-21 October 2021	ADR mechanism (Mediation)	Intersessional meeting hosted by Hong Kong/China
<b>15-19 November 2021 (tbc)</b>	<b>First Reading: Draft Code of Conduct</b>	<b>41st Working Group Session</b>
6-10 December 2021 (tbc)	Multilateral permanent investment court (1 day), Cross cutting issues and damages (1 day), ADR mechanisms and dispute prevention (1 day), Multilateral instrument to implement the reform (2 days)	Informal Meeting
To be scheduled (7 days)	Draft code of conduct (2 days); Procedural Rules Reform (1 day); Multilateral permanent investment court (1 day), Cross cutting issues and damages (2 days), ADR mechanisms and dispute prevention (1 day)	Informal Meeting
<b>Date to be confirmed</b>	<b>Instructions on Multilateral Advisory Centre (1 day); First Reading on Multilateral Permanent Investment Court (3 days)</b>	<b>42st Working Group Session</b>

## 4 Resource requirements and workplan



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### Request for additional resources (A/CN.9/1063)

- For consideration by the Commission at its 54th session
- One additional week of working group session from 2022-2025 and secretariat resources
- Taking reference from the Report on the work at the resumed 40th session of the Working Group (A/CN.9/1054)

### Revised workplan (A/CN.9/1054)

- Notional schedule (that can be adapted as progress is made) for formal and informal meetings on reform options, including cross-cutting issues and the topic of damages
- Consideration of reform options by the Commission on a rolling basis
- The workplan has been extended to the Commission session in 2026

# 5 Excerpt of the workplan - 2021



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		ADR Mechanisms and Dispute Prevention	Selection and Appointment of Arbitrators	Code of Conduct	ISDS Procedural Rules Reforms	Multilateral Advisory Centre	Appellate Mechanism	Multilateral Permanent Investment Court	Multilateral Instrument to Implement Reforms
2021	Inter-Sessional #40	Inter-Sessional Meeting - HK China (2 days)		Other Meetings w ICSID (2 day) / Drafting Group (2 days)	Other Meetings (2 days)/ Inter-Sessional Meeting – Republic of Korea (2 days)	Other Meetings (3 days)		Other Meetings (2 days)	
		Commission #54 - Decision on Resource Request							
	Working Group #41			First Reading (4 days)					
	Inter-Sessional #41	Other Meetings (2 days)			Other Meetings on Cross-Cutting Issues and Damages (3 days)			Drafting Group (2 days)	Other Meetings (2 days)

# 5 Excerpt of the workplan - 2022



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		ADR Mechanisms and Dispute Prevention	Selection and Appointment of Arbitrators	Code of Conduct	ISDS Procedural Rules Reforms	Multilateral Advisory Centre	Appellate Mechanism	Multilateral Permanent Investment Court	Multilateral Instrument to Implement Reforms
2022	Working Group #42					Instructions (1 day)		First Reading (3 days)	
	Inter-Sessional #42		Other Meetings (1 day)				Inter-Sessional Meeting (2 days)	Inter-Sessional Meeting (2 days)	Other Meetings (1 day)
		Commission #55 – Consideration of the Code of Conduct							
	Working Group #43	Instructions (1 day)			Instructions on Cross- Cutting Issues and Damages (3 days)				
	Inter-Sessional #43						Drafting Group (2 days)	Drafting Group (2 days)	
	Working Group #44						First Reading (3 days)		Instructions (1 day)
	Inter-Sessional #44	Drafting Group (2 days)				Drafting Group (2 days)	Other Meetings (2 days)		