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UNCITRAL Working Group III (ISDS reform)

Status of work

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

1 Initial Drafts for comments



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Establishment of an advisory centre

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

Regulation of third-party funding

- Initial draft for comments until 15 September 2021

Draft Code of Conduct for Adjudicators Version Two

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

Implementation and Enforcement of the Code of Conduct

- Draft note for comments
- Envisaged for discussion in 41st session in November 2021

Assessment of damages and compensation

- Initial draft for comments until 30 November 2021

Mediation and other forms of alternative dispute resolution (ADR)

- Initial draft (2 documents) for comments until 31 December 2021

Standing multilateral mechanism: Selection and appointment of ISDS tribunal members and related matters

- Initial draft for comments until 15 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

Dispute prevention and mitigation

Enforcement of decisions by a court or appellate body

Multilateral Investment Tribunal

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



Date	Topic	Format
12 – 16 July 2021	Reports A/CN.9/1044, A/CN.9/1050, A/CN.9/1054 and document A/CN.9/1063 on request for additional resources	54th Commission Session
26 August 2021	Damages	Webinar organized with with Academic Forum
2-3 September 2021	Procedural rules reform	Intersessional Meeting hosted by the Republic of Korea (online)
13-14 September 2021	Multilateral permanent investment tribunal	Informal Meeting
28-29 October 2021	ADR mechanism (Mediation)	Intersessional meeting hosted by Hong Kong/China
15-19 November 2021 (tbc)	First Reading: Draft Code of Conduct	41st Working Group Session
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
Date to be confirmed	Instructions on Multilateral Advisory Centre (1 day); First Reading on Multilateral Permanent Investment Court (3 days)	42st Working Group Session

4 Resource requirements and workplan



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

- Considered 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)

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)	