UNCITRAL Working Group III (ISDS reform)

Status of work

Information accurate as of 15 December 2021
Status of work

1. Notes by the Secretariat for discussion
2. Initial drafts for comments
3. Initial drafts in preparation
4. Upcoming events
5. Resource requirements and workplan
6. Excerpts of the workplan: Year 2022
1 Notes by Secretariat for discussion

42nd Working Group Session
14-18 February 2022, New York

• A/CN.9/WG.III/WP.208 - Investor-State dispute settlement (ISDS) reform – Draft code of conduct: Means of implementation and enforcement

• A/CN.9/WG.III/WP.209 - Possible reform of investor-State dispute settlement (ISDS) – Draft Code of Conduct

• A/CN.9/WG.III/WP.212 - Possible reform of investor-State dispute settlement (ISDS) - Advisory Centre

• A/CN.9/WG.III/WP.212/Add.1 - Possible reform of investor-State dispute settlement (ISDS) - Advisory Centre

• A/CN.9/WG.III/WP.213 - Possible reform of investor-State dispute settlement (ISDS) - Standing multilateral mechanism: Selection and appointment of ISDS tribunal members and related matters
2 Initial Drafts for comments

Mediation and other forms of alternative dispute resolution (ADR)
- Initial draft (2 documents) for comments until 31 December 2021

Appellate mechanism
- Initial draft for comments until 30 June 2022

Outline on the Cost and financing of a permanent multilateral body
- Presented during informal meeting on 7 December 2021
List of initial drafts in preparation

* Expected release dates will be added in due course

- Cost of establishing a permanent body
- Dispute prevention and mitigation
- Enforcement of decisions by a court or appellate body
- 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
4 Upcoming events

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Format</th>
</tr>
</thead>
<tbody>
<tr>
<td>To be scheduled in 2022 (7 days)</td>
<td>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)</td>
<td>Informal Meeting</td>
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<td>14-18 February 2022</td>
<td>Consideration of the Code of Conduct Instructions on Multilateral Advisory Centre First Reading on Multilateral Permanent Investment Court</td>
<td>42st Working Group Session, New York</td>
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<tr>
<td>To be scheduled in 2022 (6 days)</td>
<td>Selection and Appointment of Arbitrators (1 day); Appellate Mechanism (2 days); Multilateral permanent investment court (2 days); Multilateral instrument on ISDS reform (1 day)</td>
<td>Informal Meeting</td>
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<tr>
<td></td>
<td>Consideration of the Code of Conduct and Commentary</td>
<td>55th Commission Session</td>
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5 Resource requirements and workplan

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
### 2022 Excerpt of the workplan - 2022

<table>
<thead>
<tr>
<th>Year</th>
<th>Working Group #42</th>
<th>Inter-Sessional #42</th>
<th>Working Group #43</th>
<th>Inter-Sessional #43</th>
<th>Working Group #44</th>
<th>Inter-Sessional #44</th>
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<tbody>
<tr>
<td>2022</td>
<td>Instructions (1 day)</td>
<td>Other Meetings (1 day)</td>
<td>Instructions on Cross-Cutting Issues and Damages (3 days)</td>
<td>Drafting Group (2 days)</td>
<td>First Reading (3 days)</td>
<td>Drafting Group (2 days)</td>
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**Commission #55 – Consideration of the Code of Conduct**