

ISDS Reform – Establishment of an Advisory Centre

MEDIATION SERVICES

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The benefits of mediation

- **Mediation is affordable**
- **Mediation is flexible, offering disputing parties more settlement options**
- **Mediation is confidential**
- **Mediation prevents litigation**
- **Mediation can help narrow down the scope of disputes**

See Secretariat Note on Dispute Prevention and Mitigation (A/CN.9/WG.III/WP.190)

Practical challenges in mediation

- Limited resources
- Lack of expertise
- Hesitation to commit to the process/outcome
- Avoidance of responsibility
- Fear of criticisms

Potential Roles of the Advisory Centre



Explaining how mediation works



**Unbiased assessment/
evaluating the feasibility
of mediation**



**Curating a list/roster
of mediators**



**Providing a platform to
exchange best practices**



**Administering mediation, including
drafting settlement agreements**

Important issues for consideration

■ Who would be the beneficiaries?

- States (whether it should be limited to all or some developing countries/LDCs)
- Investors (whether investors should be able to access the services at all / whether it should be limited to SMEs)

■ How would the services be funded?

- Whether a proportion of the funding should be set aside for ADR-related assistance

■ Providing ADR services would add to the workload and budget of the Advisory Centre > How to ensure that it is not overwhelmed?

- Whether ADR should be included in the scope of services from the start or included later when the Advisory Centre has the capacity to expand