



General Assembly

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**United Nations Commission on
International Trade Law
Working Group III (Investor-State Dispute
Settlement Reform)**

Fortieth session

Vienna (online), 8-12 February 2021

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session.
2. Adoption of the agenda.
3. Possible reform of investor-State dispute settlement (ISDS).
4. Other business

II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following: Algeria (2025), Argentina (2022), Australia (2022), Austria (2022), Belarus (2022), Belgium (2025), Brazil (2022), Burundi (2022), Cameroon (2025), Canada (2025), Chile (2022), China (2025), Colombia (2022), Côte d'Ivoire (2025), Croatia (2025), Czechia (2022), Dominican Republic (2025), Ecuador (2025), Finland (2025), France (2025), Germany (2025), Ghana (2025), Honduras (2025), Hungary (2025), India (2022), Indonesia (2025), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2025), Kenya (2022), Lebanon (2022), Lesotho (2022), Libya (2022), Malaysia (2025), Mali (2025), Mauritius (2022), Mexico (2025), Nigeria (2022), Pakistan (2022), Peru (2025), Philippines (2022), Poland (2022), Republic of Korea (2025), Romania (2022), Russian Federation (2025), Singapore (2025), South Africa (2025), Spain (2022), Sri Lanka (2022), Switzerland (2025), Thailand (2022), Turkey (2022), Uganda (2022), Ukraine (2025), United Kingdom of Great Britain and Northern Ireland (2025), United States of America (2022), Venezuela (Bolivarian Republic of) (2022), Viet Nam (2025) and Zimbabwe (2025).

2. States not members of the Commission and international governmental organizations may attend the session as observers and participate in the deliberations. In addition, invited international non-governmental organizations may attend the session as observers and represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.

III. Annotations to agenda items

Item 1. Opening of the session

3. The fortieth session of the Working Group will be held from 8 to 12 February 2021 at the Vienna International Centre, with the arrangements put in place to allow both in-person and online participation. Meeting hours and other arrangements for the session will be announced on the web page of the fortieth session of the Working Group.

Item 3. Possible reform of investor-State dispute settlement (ISDS)

(a) Previous deliberations

4. At its fiftieth session in 2017, the Commission entrusted Working Group III with a broad mandate to work on the possible reform of investor-State dispute settlement (ISDS). It also agreed that in line with the UNCITRAL process, the Working Group would, in discharging that mandate, ensure that the deliberations, while benefiting from the widest possible breadth of available expertise from all stakeholders, would be government-led with high-level input from all governments, consensus-based and be fully transparent. The Working Group would proceed to: first, identify and consider concerns regarding ISDS; second, consider whether reform was desirable in light of any identified concerns; and third, if the Working Group were to conclude that reform was desirable, develop any relevant solutions to be recommended to the Commission. The Commission agreed that broad discretion should be left to the Working Group in discharging its mandate, and that any solutions devised would be designed taking into account the ongoing work of relevant international organizations and with a view to allowing each State the choice of whether and to what extent it wishes to adopt the relevant solution(s).¹

5. For a summary of previous deliberations, see document A/CN.9/WG.III/WP.198, paras. 6 to 10.

(b) Documentation

6. At its fortieth session, the Working Group is expected to continue its consideration of ISDS reform based on the documents, which can be downloaded from the UNCITRAL website (background documents are no longer available at Working Group sessions in printed form):

(a) Documents prepared by the Secretariat:

- A/CN.9/WG.III/WP.201 on draft code of conduct;
- A/CN.9/WG.III/WP.202 on appellate mechanism and enforcement issues;
- A/CN.9/WG.III/WP.203 on the selection and appointment of ISDS tribunal members.

7. The Working Group may also wish to make reference to the following background documents also available on the UNCITRAL website:

- Reports of the United Nations Commission on International Trade Law on the work of its forty-eighth session (Official Records of the General Assembly, Seventieth Session, Supplement No. 17 (A/70/17)); forty-ninth session (Official Records of the General Assembly, Seventy-first Session, Supplement No. 17 (A/71/17)); fiftieth session (Official Records of the General Assembly, Seventy-second Session, Supplement No. 17 (A/72/17)); fifty-first session (Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)); and fifty-second session (Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 17 (A/74/17));

¹ Official Records of the General Assembly, Seventy-second Session, Supplement No. 17 (A/72/17), para. 264.

- Report of the Working Group on the work of its thirty-fourth session (A/CN.9/930/Rev.1 and A/CN.9/930/Add.1/Rev.1); thirty-fifth session (A/CN.9/935); thirty-sixth session (A/CN.9/964); thirty-seventh session (A/CN.9/970); thirty-eighth session (A/CN.9/1004); resumed thirty-eighth session (A/CN.9/1004/Add.1); and thirty-ninth session (A/CN.9/1044).

- Note by the Secretariat on the reform options (A/CN.9/WG.III/WP.166 and its addendum).

8. UNCITRAL documents are posted on the UNCITRAL website upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents by accessing the Working Group III page.

Item 4. Other Business

9. The Working Group may consider other business, including the status of its work and resource plan (see document A/CN.9/1044, paras. 113).