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# UNCITRAL

## Working Group III

### Virtual Pre-Intersessional Meeting

### The Use of Mediation in ISDS

**09** **LIVE CAST**  
**NOVEMBER, 2020**

In the work of Working Group III of the United Nations Commission on International Trade Law (UNCITRAL) on the possible reform of investor-State dispute settlement (ISDS), the use of mediation in resolving ISDS disputes is a topic that is being studied.

Mediation, which emphasises harmony, can offer unique benefits, such as providing host jurisdictions and foreign investors with a high degree of autonomy, flexibility and creative, forward-looking and consensual settlement arrangements in resolving international investment disputes, preserving the long-term relationships between the disputing parties as well as saving costs and time. Mediation can also complement the use of investment arbitration to enrich the practice of ISDS.

In order to contribute to the discussion of UNCITRAL Working Group III on mediation, a virtual pre-intersessional meeting will be held on 9 November 2020 (GMT+8 time zone). World-renowned experts, including those from governments and international organisations, mediators, practitioners as well as academics will discuss various topical issues of investment mediation. These topical issues will cover how to overcome challenges to the use of mediation in ISDS, the design of mediation protocol in a multi-tiered dispute resolution process, the process design in hybrid models of arbitration and mediation, and the way forward for mediation as a reform option for ISDS.

Delegations of UNCITRAL Working Group III and those who are interested in the use of mediation in ISDS are most welcome to register to join the virtual pre-intersessional meeting.



Enquiries: [events@aail.org](mailto:events@aail.org)

Free Registration: <https://events.aail.org/en/event/2020-UNCITRAL-WGIII/>

# UNCITRAL Working Group III Virtual Pre-Intersessional Meeting

## The Use of Mediation in ISDS

Provisional Agenda

9 Nov 2020

TIME (GMT+8)	MORNING SESSIONS
09:00 - 09:15	<p><b>OPENING CEREMONY</b></p> <p><b>Opening Remarks</b> Ms Li Yongjie Director-General, Department of Treaty and Law, Ministry of Commerce of the People's Republic of China</p> <p><b>Opening Remarks</b> Ms Teresa Cheng GBS SC JP Secretary for Justice, the Hong Kong Special Administrative Region of the People's Republic of China</p>
09:15 - 10:35	<p><b>SESSION 1 – OVERCOMING CHALLENGES TO THE USE OF MEDIATION IN ISDS</b></p> <p><b>Moderator:</b> Mr Shane Spelliscy Chair of UNCITRAL Working Group III; General Counsel and Director, Investment and Services Law, Global Affairs Canada</p> <p><b>Speakers:</b> Mr Justin D'Agostino CEO, Herbert Smith Freehills Topic: Practitioner's Perspective on Overcoming Challenges to the Greater Use of Mediation for ISDS</p> <p>Ms Meg Kinnear Secretary General, ICSID Topic: ICSID's Perspective on Facilitating the Greater Use of Conciliation and Mediation for ISDS</p> <p>Professor Jaemin Lee Representative of the Korean Delegation; Professor, School of Law, Seoul National University Topic: Korea's Experience in Dispute Prevention and Mediation for ISDS</p> <p>Ms Mairée Clarisa Uran Bidegain Coordinator, Foreign Investment Arbitration Defense Program of the Chilean Ministry of Foreign Affairs Topic: Explore the Use of a Multilateral Instrument on ISDS Reform to Encourage the Use of Mediation</p> <p><b>Q &amp; A</b> <b>Panel Discussion</b></p>
10:35 - 11:35	<p><b>SESSION 2 – MULTI-TIERED DISPUTE RESOLUTION PROCESS (MEDIATION PROTOCOL)</b></p> <p><b>Moderator:</b> Dr Anthony Neoh QC SC JP Chairman, Asian Academy of International Law</p> <p><b>Speakers:</b> Mr Wolf von Kumberg International Mediator and Arbitrator Topic: How to Overcome the Obstacles to the Integration of Mediation with Arbitration in a Multi-Tiered Dispute Resolution Process</p> <p>Professor Jack J. Coe Jr. Professor of Law, Caruso School of Law, Pepperdine University Topic: Considerations in the Design of Effective Mediation Protocols for International Investment Agreements</p> <p>Mr Ronald Sum Head of Dispute Resolution Hong Kong, Addleshaw Goddard LLP Topic: Innovation of the Investment Mediation Rules under the CEPA Investment Agreement</p> <p><b>Q &amp; A</b> <b>Panel Discussion</b></p>

TIME (GMT+8)	AFTERNOON SESSIONS
16:00 - 17:20	<p><b>SESSION 3 – HYBRID MODELS OF ARBITRATION AND MEDIATION</b></p> <p><b>Moderator:</b>  <b>Ms Natalie Morris-Sharma</b>  Rapporteur of UNCITRAL Working Group III; Government Legal Counsel, Attorney-General's Chambers, Singapore</p> <p><b>Speakers:</b>  <b>Mr Barton Legum</b>  Partner, Global Co-Chair, Litigation and Dispute Resolution, Dentons  <b>Topic: Legal Issues in the Use of Hybrid Models of Arbitration and Mediation for ISDS</b></p> <p><b>Mr Francis Xavier SC</b>  President, Chartered Institute of Arbitrators  <b>Topic: The Use of Mandatory Mediation in a Hybrid Dispute Resolution Model</b></p> <p><b>Mr Cao Lijun</b>  Partner, Zhong Lun Law Firm  <b>Topic: Chinese Perspective and Experience on the Use of Hybrid Models</b></p> <p><b>Professor Hi-Taek Shin</b>  Emeritus Professor of Law, Seoul National University School of Law  <b>Topic: The Potential for Arbitrators to Also Act as Mediators for Facilitating Settlement of Disputes</b></p> <p><b>Q &amp; A</b>  <b>Panel Discussion</b></p>
17:20 - 18:20	<p><b>SESSION 4 – WAY FORWARD FOR MEDIATION AS A REFORM OPTION FOR ISDS</b></p> <p><b>Moderator:</b>  <b>Ms Anna Joubin-Bret</b>  Secretary, UNCITRAL</p> <p><b>Speakers:</b>  <b>Mr Alejandro Carballo-Leyda</b>  General Counsel and Head of Conflict Resolution Centre, International Energy Charter  <b>Topic: Tools for Promoting the Greater Use of Mediation by States in ISDS</b></p> <p><b>Mr Charlie Garnjana-Goonchorn</b>  Counsellor, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Thailand  <b>Topic: Provision of Mediation Services by an Advisory Centre on ISDS</b></p> <p><b>Mr Reetoo Dinay</b>  Principal State Counsel, Attorney-General's Office, Mauritius  <b>Topic: The Role of Capacity Building in the Way Forward for the Use of Mediation in ISDS by States</b></p> <p><b>Q &amp; A</b>  <b>Panel Discussion</b></p>
18:20 - 18:35	<p><b>CLOSING REMARKS</b></p> <p><b>Ms Anna Joubin-Bret</b>  Secretary, UNCITRAL</p>