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Status of work

UNCITRAL Working Group III (ISDS reform)

Disclaimer: These slides are to provide information to delegates as the 39th session of the Working Group scheduled for 30 March to 3 April at UN Headquarters in New York was postponed.

* Information accurate as of 20 July 2020

Moving forward



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- Status of preparatory work on reform options
- Inter-sessional meetings and webinars
- Information on the resumed Commission session and the Working Group session will be updated on the UNCITRAL web page

Reform options originally scheduled for discussion in spring 2020



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Shareholder claims
and reflective loss
(WP.170)

Dispute prevention
and mitigation
(WP.190)

Treaty
interpretation
(WP.191)

Security for costs &
frivolous claims
(WP.192)

Multiple
proceedings and
counter-claims
(WP.193)

Multilateral
instrument on ISDS
reform (WP.194)

Update on reform options considered by the Working Group at its previous sessions



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Advisory centre

- Questionnaire on the establishment of an advisory centre circulated in February 2020
- Secretariat note under preparation (to be issued in final form in fall 2020)
- Webinar recording and documents available at <https://uncitral.un.org/en/advisorycentrewebinar>

Code of conduct

- Draft code of conduct prepared jointly with ICSID
- First draft available for comments at <https://uncitral.un.org/en/codeofconduct>
- Secretariat note to be issued in final form in fall 2020
- Regional presentations by ICSID and UNCITRAL Secretariats (carried out in June)

Third-party funding

- Draft provisions under preparation, to be available on the UNICTRAL website for comments in summer 2020
- Secretariat note to be issued in final form end 2020

Appellate mechanism, including enforcement

- Draft note available on the UNCITRAL website for comments until 15 November 2020: https://uncitral.un.org/en/working_groups/3/investor-state
- Secretariat note to be issued in final form end 2020

Selection and appointment of ISDS tribunal members

- Draft note available on the UNCITRAL website for comments until 15 November 2020: https://uncitral.un.org/en/working_groups/3/investor-state
- Secretariat note to be issued in final form in end 2020

Other reform options – not yet scheduled



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Damages

- Secretariat note under preparation in cooperation with the ICCA and the Academic Forum

Financing of a standing body

- Secretariat note under preparation

Past events since the resumed 38th session



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Topic	Format	Date	Webpage
Advisory centre	Webinar	21 April 2020	https://uncitral.un.org/en/advisorycentrewebinar
Multilateral instrument on ISDS reform - I	Webinar	23 April 2020	https://uncitral.un.org/en/multilateralinstrumentwebinar
Multilateral instrument on ISDS reform - II	Webinar (follow-up to the webinar on 23 April 2020)	14 May 2020	https://uncitral.un.org/en/multilateralinstrumentwebinar_20200514
Treaty Parties' involvement and control mechanisms on treaty interpretation	Webinar	4 June 2020	https://uncitral.un.org/en/treatyinterpretationwebinar
Mediation- Strengthening ADR	Webinar	18 June 2020 (tentative)	https://uncitral.un.org/en/mediationwebinar
Presentation of Code of Conduct for ISDS Adjudicators for state delegations	Webinar with ICSID Secretariat	22-25 June 2020	https://uncitral.un.org/en/codeofconduct
Presentation of Code of Conduct for ISDS Adjudicators for other stakeholders	Webinar with ICSID Secretariat	29 June – 1 July 2020	https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/code_of_conduct_webinar_flyer.pdf
Shareholder claims and reflective loss	Webinar with OECD	2-3 July 2020 (tentative)	https://uncitral.un.org/en/shareholderclaimswebinar

Upcoming events



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Topic	Format	Date/ location
TBD	Inter-sessional meeting/TBD	Proposal by Peru to be confirmed
Investment mediation and dispute prevention	Inter-sessional meeting/TBD	9-10 November 2020 (tentative)/Hong Kong, China
Multilateral instrument on ISDS reform	Inter-sessional meeting/TBD	Proposal by Australia to be confirmed