



General Assembly

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**United Nations Commission on
International Trade Law
Working Group III (Investor-State Dispute
Settlement Reform)
Forty-sixth session
Vienna, 9–13 October 2023**

Annotated provisional agenda

I. Provisional agenda

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

II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following: Afghanistan (2028), Algeria (2025), Argentina (2028), Armenia (2028), Australia (2028), Austria (2028), Belarus (2028), Belgium (2025), Brazil (2028), Bulgaria (2028), Cameroon (2025), Canada (2025), Chile (2028), China (2025), Colombia (2028), Côte d'Ivoire (2025), Croatia (2025), Czechia (2028), Democratic Republic of the Congo (2028), Dominican Republic (2025), Ecuador (2025), Finland (2025), France (2025), Germany (2025), Ghana (2025), Greece (2028), Honduras (2025), Hungary (2025), India (2028), Indonesia (2025), Iran (Islamic Republic of) (2028), Iraq (2028), Israel (2028), Italy (2028), Japan (2025), Kenya (2028), Kuwait (2028), Malawi (2028), Malaysia (2025), Mali (2025), Mauritius (2028), Mexico (2025), Morocco (2028), Nigeria (2028), Panama (2028), Peru (2025), Poland (2028), Republic of Korea (2025), Russian Federation (2025), Saudi Arabia (2028), Singapore (2025), Somalia (2028), South Africa (2025), Spain (2028), Switzerland (2025), Thailand (2028), Türkiye (2028), Turkmenistan (2028), Uganda (2028), Ukraine (2025), United Kingdom of Great Britain and Northern Ireland (2025), United States of America (2028), Venezuela (Bolivarian Republic of) (2028), 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 forty-sixth session of the Working Group will be held in Vienna from 9 to 13 October 2023 at the Vienna International Centre. Meeting hours will be from 9.30 a.m. to 12.30 p.m. and from 2 to 5 p.m., except on Monday, 9 October 2023, when the session will be opened at 10 a.m. Detailed arrangements for the session will be announced on the web page of Working Group III in due course.

Item 2. Election of officers

4. In accordance with its practice, the Working Group may wish to elect a Chairperson and a Rapporteur.

Item 4. Possible reform of investor-State dispute settlement (ISDS)

5. 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 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

6. From its thirty-fourth to thirty-seventh session, the Working Group identified and discussed concerns regarding ISDS and considered that reform was desirable in light of the identified concerns.² From its thirty-eighth to forty-fifth session, the Working Group considered concrete elements for ISDS reform.³

7. At its fifty-sixth session in 2023, the Commission finalized and adopted the [Draft Provisions on Mediation, the Draft Guidelines on Investment Mediation and the Code of Conduct for Arbitrators in International Investment Dispute Resolution and adopted in principle the Code of Conduct for Judges in International Investment Dispute Resolution], all of which were prepared by the Working Group.⁴

8. At that session, the Commission also expressed its satisfaction with the progress made by the Working Group and the support provided by the Secretariat.

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

² The deliberations and decisions of the Working Group at its thirty-fourth to thirty-seventh sessions are set out in documents [A/CN.9/930/Rev.1](#); [A/CN.9/930/Rev.1/Add.1](#); [A/CN.9/935](#); [A/CN.9/964](#); and [A/CN.9/970](#), respectively.

³ The deliberations and decisions of the Working Group at its thirty-eighth to forty-fifth sessions are set out in documents [A/CN.9/1004](#); [A/CN.9/1004/Add.1](#); [A/CN.9/1044](#); [A/CN.9/1050](#); [A/CN.9/1054](#); [A/CN.9/1086](#); [A/CN.9/1092](#); [A/CN.9/1124](#); [A/CN.9/1130](#); and [A/CN.9/1131](#).

⁴ *Official Records of the General Assembly, Seventy-eighth Session, Supplement No. 17 (A/78/17)* (forthcoming).

9. At its forty-third session in September 2022, the Working Group discussed the establishment of an advisory centre on international investment law based on documents [A/CN.9/WG.III/WP.212](#) and [A/CN.9/WG.III/WP.212/Add.1](#) and requested the Secretariat to prepare a revised set of provisions based on the deliberations ([A/CN.9/1124](#), para. 65). At that session, the Working Group also considered draft provisions on procedural reform on the basis of document [A/CN.9/WG.III/WP.219](#) and other cross-cutting issues, identified additional issues as requiring further work and requested the Secretariat to prepare draft provisions on the identified issues ([A/CN.9/1124](#), paras. 89–144).

Reform elements and documentation

10. At its forty-sixth session, the Working Group is expected to continue its deliberations on the advisory centre on international investment law followed by deliberations on draft provisions on procedural and cross-cutting issues. The detailed scheduling of the session will be provided in advance of the session.

11. The deliberations would be based on the following documents prepared by the Secretariat:

- [A/CN.9/WG.III/WP.230](#) and [A/CN.9/WG.III/WP.212/Add.1](#) on the advisory centre on the international investment law; and
- [A/CN.9/WG.III/WP.231](#) and [A/CN.9/WG.III/WP.232](#) on draft provisions on procedural and cross-cutting issues.

12. 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 web page.

Item 5. Other business

13. The Working Group will hear an oral report on the sixth intersessional meeting on ISDS reform, which took place on 7 and 8 September 2023 in Singapore. Information about forthcoming informal events including any intersessional meeting will also be provided.

Item 6. Adoption of the report

14. The Commission, at its fifty-fifth session in 2022, decided that the Working Group could use the last meeting of its sessions for substantive deliberations, rather than for the adoption of the report, and continue the practice of adopting the report by a written procedure. Accordingly, the Chairperson and the Rapporteur will prepare a summary reflecting the deliberations and any conclusions reached during the session, which will be circulated during or after the session for comments by delegations. Based on the comments received, a revised summary will be prepared and circulated for adoption by the Working Group as its report for submission to the fifty-seventh session of the Commission in 2024. In case there are objections, it may be presented as the summary of the Chairperson and the Rapporteur for consideration and action by the Commission as it deems appropriate or may be adopted by the Working Group as its report at following session.⁵

⁵ *Official Records of the General Assembly, Seventy-seventh session, Supplement No. 17 (A/77/17)*, para. 236.