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**United Nations Commission  
on International Trade Law**  
**Forty-sixth session**  
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**Settlement of commercial disputes: Applicability of the  
UNCITRAL rules on transparency to the settlement of  
disputes arising under existing investment treaties**

**Note by the Secretariat**

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## I. Introduction

1. At its forty-third session (New York, 21 June-9 July 2010), with respect to future work in the field of settlement of commercial disputes, the Commission recalled the decision made at its forty-first session (New York, 16 June-3 July 2008)<sup>1</sup> that the topic of transparency in treaty-based investor-State arbitration should be dealt with as a matter of priority immediately after completion of the revision of the UNCITRAL Arbitration Rules. The Commission entrusted its Working Group II with the task of preparing a legal standard on that topic.<sup>2</sup> The Working Group started its consideration of the matter at its fifty-third session (Vienna, 4-8 October 2010), and agreed that the legal standard on transparency would take the form of rules on transparency in treaty-based investor-State arbitration.<sup>3</sup> At its forty-fifth session (New York, 25 June-6 July 2012), the Commission urged the Working Group to pursue its efforts and to complete its work on the rules on transparency for consideration by the Commission preferably at its next session.<sup>4</sup> Accordingly, at its fifty-eighth session (New York, 4-8 February 2013), the Working Group completed its third reading of the rules on transparency.<sup>5</sup> The text of the draft rules on transparency for consideration by the Commission is contained in document A/CN.9/783.

2. At its forty-fourth session (Vienna, 26 June-8 July 2011), the Commission confirmed that the question of applicability of the legal standard on transparency to investment treaties concluded before the date of adoption of the rules on transparency (“existing investment treaties”) was part of the mandate of the Working Group and a question of great practical interest, taking account of the high number of investment treaties currently in existence.<sup>6</sup> In that context, the Working Group discussed the options of making the rules on transparency applicable to existing investment treaties either by way of a convention, whereby States could express consent to apply the rules on transparency to arbitration under their existing investment treaties, or by a recommendation urging States to make the rules applicable in the context of treaty-based investor-State dispute settlement. The possibility of making the rules on transparency applicable to existing investment treaties by joint interpretative declaration pursuant to article 31(3)(a) of the Vienna Convention on the Law of Treaties (the “Vienna Convention”), or by an amendment

<sup>1</sup> *Official Records of the General Assembly, Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 314.

<sup>2</sup> *Ibid.*, *Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 190.

<sup>3</sup> At its fifty-third (A/CN.9/712) and fifty-fourth (A/CN.9/717) sessions, the Working Group considered the matters of form, applicability and content of a legal standard on transparency in treaty-based investor-State arbitration; at its fifty-fifth (A/CN.9/736), fifty-sixth (A/CN.9/741) and fifty-seventh (A/CN.9/760) sessions, the Working Group completed a first and second reading of the draft rules on transparency.

<sup>4</sup> *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 65-69.

<sup>5</sup> The report of the Working Group on the work of its fifty-eighth session is contained in document A/CN.9/765. At that session, the Working Group completed its third reading of the rules on transparency based on document A/CN.9/WG.II/WP.176 and its addendum.

<sup>6</sup> *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 200. For an online compilation of all investment treaties, see the database of the United Nations Conference on Trade and Development (UNCTAD), available on 1 March 2013 at [www.unctadxi.org/templates/DocSearch\\_\\_\\_\\_\\_779.aspx](http://www.unctadxi.org/templates/DocSearch_____779.aspx).

or modification of a relevant treaty pursuant to articles 39-41 of the Vienna Convention, was also considered by the Working Group.<sup>7</sup>

3. In accordance with the decisions of the Working Group at its fifty-eighth session, part II (A) of this note contains the draft text of a convention on transparency, as well as a draft recommendation, in order to provide possible means of application of the rules on transparency to disputes arising under existing investment treaties, for the consideration of the Commission (A/CN.9/765, para. 14). Examples of joint or unilateral interpretative declarations pursuant to article 31(3)(a) of the Vienna Convention, and models of text to modify or amend existing investment treaties pursuant to articles 39-41 of the Vienna Convention, are set out in part II (B) of this note for the consideration and reference of the Commission, but in practice such declarations and amendments are a matter to be considered and undertaken by Parties to existing investment treaties.

## **II. Possible draft instruments for the application of the UNCITRAL rules on transparency to the settlement of disputes arising under existing investment treaties**

### **A. Possible UNCITRAL instruments**

#### **1. Draft convention on transparency in treaty-based investor-State arbitration**

4. The Commission may wish to note that, with a view to promoting application of the rules on transparency to existing investment treaties, a suggestion was made at the fifty-third and fifty-fourth sessions of the Working Group that a convention on transparency in treaty based investor-State arbitration, whereby States would express consent to apply the rules on transparency to existing investment treaties, might be desirable.<sup>8</sup> At the fifty-fifth session of the Working Group, it was said that a convention was feasible and should be further considered as that instrument would best fulfil the mandate to further transparency in treaty-based investor-State arbitration.<sup>9</sup>

5. The text of a possible draft convention on transparency in treaty-based investor-State arbitration could read as follows.

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<sup>7</sup> References to the reports of the Working Group where application of the rules on transparency to existing investment treaties was discussed: A/CN.9/712, paras. 85-94; A/CN.9/717, paras. 42-46; A/CN.9/736, paras. 134 and 135; A/CN.9/760, para. 141; A/CN.9/765, para. 14. Notes by the Secretariat on the matter: A/CN.9/WG.II/WP.162, paras. 22-40; A/CN.9/WG.II/WP.166/Add.1; A/CN.9/WG.II/WP.169/Add.1; A/CN.9/WG.II/WP.176/Add.1.

<sup>8</sup> A/CN.9/712, para. 93; A/CN.9/717, paras. 42-46.

<sup>9</sup> A/CN.9/736, para. 135.

**Draft text of a convention on transparency in treaty-based investor-State arbitration**

*“The Parties to this Convention,*

*“Reaffirming* their belief that international trade on the basis of equality and mutual benefit is an important element in promoting friendly relations among States,

*“Convinced* that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, significantly contributes to universal economic cooperation among all States on a basis of equality and common interest, and to the well-being of all peoples,

*“Recognizing* the value of arbitration as a method of settling disputes that may arise in the context of international relations, and the extensive and wide-ranging use of arbitration for the settlement of investor-State disputes,

*“Also recognizing* the need for provisions on transparency in the settlement of treaty-based investor-State disputes to take account of the public interest involved in such arbitrations,

*“Believing* that the Rules on Transparency adopted by the United Nations Commission on International Trade Law (UNCITRAL) on [date] would contribute significantly to the establishment of a harmonized legal framework for a fair and efficient settlement of international [investment] disputes,

*“Noting* the great number of investment treaties already in force, and the practical importance of promoting the application of the UNCITRAL Rules on Transparency to arbitration under those already concluded investment treaties,

*“Have agreed as follows:*

*“Article 1*

*“Scope of application*

“1. This Convention shall apply to investor-State arbitration conducted on the basis of a treaty providing for the protection of investments or investors between Contracting Parties to this Convention.

“2. The term ‘treaty providing for the protection of investments or investors’ means any investment agreement between Contracting Parties, including free trade agreements, economic integration agreements, trade and investment framework or cooperation agreements, and bilateral and multilateral investment treaties, so long as it contains provisions on the protection of investments or investors and a right for investors to resort to arbitration against Parties to the treaty.

*“Article 2*

*“Interpretation*

“In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

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*“Article 3*

*“Use of the UNCITRAL Rules on Transparency*

“Each Contracting Party to this Convention agrees to apply the UNCITRAL Rules on Transparency to investor-State arbitration conducted pursuant to a treaty providing for the protection of investments or investors to which it is a Party. Nothing in this Convention prevents a Contracting Party from applying standards that provide for a higher degree of transparency than the Rules on Transparency.

*“Article 4*

*“Reservations*

“1. A Contracting Party may declare that certain investment treaties fall outside the scope of this Convention. No other reservations are permitted to this Convention.

“2. Reservations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.

“3. Reservations and their confirmations are to be formally notified to the depositary.

“4. A reservation takes effect simultaneously with the entry into force of this Convention in respect of the Contracting Party concerned. A reservation of which the depositary receives formal notification after such entry into force takes effect on the first day of the month following the expiration of [six] months after the date of its receipt by the depositary.

“5. Any Party that makes a reservation under this Convention may modify or withdraw it at any time by a formal notification in writing to the depositary. The modification or withdrawal is to take effect on the first day of the month following the expiration of [six] months after the date of receipt of the notification by the depositary.

*“Article 5*

*“Depositary*

“The Secretary-General of the United Nations is hereby designated as the depositary of this Convention.

*“Article 6*

*“Signature, ratification, acceptance, approval, accession*

“1. This Convention is open until [date] for signature by any Party to a treaty providing for the protection of investments or investors.

“2. This Convention is subject to ratification, acceptance or approval by the signatory Parties.

“3. This Convention is open for accession by any entity referred to in article 7, paragraph (1), as from the date it is open for signature.

“4. Instruments of ratification, acceptance, approval or accession are to be deposited with the depositary.

*“Article 7*

*“Effect in territorial units*

“1. If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all of its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

“2. These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.

“3. When a Contracting State has declared pursuant to this article that this Convention extends to one or more but not all of its territorial units, a place located in a territorial unit to which this Convention does not extend is not considered to be in a Contracting State for the purposes of this Convention.

“4. If a Contracting State makes no declaration pursuant to paragraph 1 of this article, the Convention is to extend to all territorial units of that State.

*“Article 8*

*“Participation by regional economic integration organizations*

“1. A regional economic integration organization that is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The regional economic integration organization shall in that case have the rights and obligations of a Contracting State, to the extent that that organization has competence over matters governed by this Convention. When the number of Contracting States is relevant in this Convention, the regional economic integration organization does not count as a Contracting State in addition to its member States which are Contracting States.

“2. The regional economic integration organization shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States. The regional economic integration organization shall promptly notify the depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration pursuant to this paragraph.

“3. Any reference to a ‘Contracting Party’ or ‘Contracting Parties’ in this Convention applies equally to a regional economic integration organization when the context so requires.

*“Article 9*

*“Entry into force*

“1. This Convention enters into force on the first day of the month following the expiration of [six] months after the date of deposit of the third instrument of ratification, acceptance, approval or accession.

“2. When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the third instrument of ratification, acceptance, approval or accession, this Convention enters into force in respect of that State on the first day of the month following the expiration of [six] months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

*“Article 10*

*“Time of application*

“This Convention and any declaration or reservation apply only to arbitral proceedings that have been commenced after the date when the Convention, declaration or reservation enters into force or takes effect in respect of each Contracting Party.

*“Article 11*

*“Revision and amendment*

“1. At the request of not less than one-third of the Contracting Parties to this Convention, the Secretary-General of the United Nations shall convene a conference of the Contracting Parties for revising or amending it.

“2. Any instrument of ratification, acceptance, approval or accession, or any reservation, deposited after the entry into force of an amendment to this Convention is deemed to apply to the Convention as amended.

*“Article 12*

*“Denunciation of this Convention*

“1. A Contracting Party may denounce this Convention at any time by means of a notification in writing addressed to the depositary. The denunciation takes effect on the first day of the month following the expiration of one year after the notification is received by the depositary.

“2. This Convention will continue to apply to arbitration in respect of which arbitral proceedings have been commenced before the denunciation takes effect.

“DONE at [place], this [date], in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

“IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised [by their respective Governments], have signed the present Convention.”

**Remarks**

*Draft article 1*

6. Draft article 1 provides that the convention shall apply to treaty-based investor-State arbitration when Parties to the investment treaty are also Contracting Parties to the convention on transparency. This is in line with the understanding expressed at the fifty-fifth session of the Working Group that a convention would make the rules on transparency applicable only to investment treaties between

Parties also Party to the convention on transparency.<sup>10</sup> This is also consistent with article 1(2)(b) of the draft rules on transparency which deals with application of the rules on transparency to arbitrations under existing treaties, and provides that the rules shall apply, *inter alia*, if the Parties to the treaty or, in the case of a multilateral treaty, the home State of the investor and the respondent State, have agreed after the date of coming into effect of the rules to their application (see document A/CN.9/783, para. 4).

7. The Commission may wish to note that the definition of a “treaty providing for the protection of investments or investors” in article 1(2) reflects the definition of article 1 of the draft rules on transparency (see document A/CN.9/783, para. 4). Further, as drafted, the convention would apply to investor-State arbitration initiated under a treaty regardless of the set of institutional or ad hoc arbitration rules applicable to the settlement of the dispute.

*Draft article 2*

8. The principles reflected in draft article 2 have appeared in most of the UNCITRAL texts, and its formulation mirrors article 7 of the United Nations Convention on Contracts for the International Sale of Goods. The provision is aimed at facilitating uniform interpretation of the provisions in uniform instruments on commercial law.

*Draft article 3*

9. A convention in the form of a general statement of applicability as proposed in paragraph 5 above does not incorporate the contents of the rules on transparency, but reflects the agreement of the contracting Parties to apply those rules to arbitrations initiated pursuant to investment treaties concluded before the date of entry into force of the convention.

10. The Commission may wish to consider whether article 3 should clarify the version of the rules on transparency that is included by reference in the event those rules are revised.

11. The Commission may wish to consider the question whether the convention should include the text of the rules on transparency, instead of a reference to those rules.<sup>11</sup>

*Draft article 4*

12. The Commission may wish to consider the reservation permitted under paragraph (1), and whether the scope of this reservation ought to remain broad, or to be more clearly prescribed.<sup>12</sup>

13. The Commission may also wish to consider whether any other reservations ought to be enumerated, or whether the convention should prohibit further reservations.<sup>13</sup>

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<sup>10</sup> A/CN.9/736, para. 135.

<sup>11</sup> A/CN.9/736, para. 135; see also A/CN.9/WP.169/Add.1, para. 39.

<sup>12</sup> A/CN.9/760, para. 141.

<sup>13</sup> See Article 19 of the Vienna Convention on the Law of Treaties 1969 in this respect.

*Draft articles 5 to 12 — Final provisions*

14. Provisions in draft articles 5 to 12 are customary provisions in conventions and are not intended to create rights and obligations for private parties. However, these provisions regulate the extent to which a contracting Party is bound by the convention, including the time the convention or any declaration submitted thereunder enter into force; therefore, they may affect the ability of the disputing parties to rely on the provisions of the convention.

*- Draft article 7*

15. Draft article 7 permits a contracting State, at the time of signature, ratification, acceptance, approval or accession, to declare that the convention is to extend to all its territorial units or only to one or more of them and to amend its declaration by submitting another declaration at any time. This provision, often called “the federal clause”, is of interest to relatively few States — namely, those with federal systems where the central Government lacks treaty power to establish uniform law for the subject matter covered by the convention. The effect of the provision would therefore be on the one hand to permit federal States to apply the convention progressively to their territorial units and on the other to permit those States that wish to do so to extend its application to all their territorial units from the very outset. The Commission may wish to consider whether this provision is necessary.

*- Draft article 8*

16. In addition to “States”, the convention allows participation by international organizations of a particular type, namely “regional economic integration organizations” that are Parties to investment treaties. The text of the convention does not contain a definition of “regional economic integration organizations”. Usually, the notion of “regional economic integration organizations” encompasses two key elements: the grouping of States in a certain region for the realization of common purposes, and the transfer of competencies relating to those common purposes from the members of the regional economic integration organization to the organization.

*- Draft article 9*

17. The basic provisions governing the entry into force of the convention are laid down in draft article 9. Three ratifications correspond to the modern trend in commercial law conventions, which promotes their application as early as possible. A six-month period from the date of deposit of the third instrument of ratification, acceptance, approval or accession is provided so as to give contracting Parties to the convention sufficient time to notify all the national organizations and individuals concerned that a convention that would affect them would soon enter into force. Paragraph (2) deals with the entry into force of the draft convention as regards those contracting Parties that become parties thereto after the time for its entry into force under paragraph (1) has already started.

*- Draft article 10*

18. While draft article 9 is concerned with the entry into force of the convention as regards the international obligations of the contracting Parties arising under the convention, draft article 10 determines the point in time when the convention would commence to apply in respect of the arbitral proceedings. The convention would

only apply prospectively, that is to arbitral proceedings commenced after the date when the convention entered into force. The words “in respect of each Contracting Party” are intended to make it clear that the article refers to the time when the convention would enter into force in respect of the contracting Party in question, and not when the convention would enter into force generally.

**2. Draft recommendation on the application of the UNCITRAL rules on transparency to the settlement of disputes arising under existing investment treaties**

19. Further to previous discussions of the Working Group,<sup>14</sup> the Commission may wish to consider a recommendation urging Parties to investment treaties to apply the standard to existing investment treaties. The purpose of the recommendation would be to highlight the importance of transparency in the context of treaty-based investor-State arbitration. The recommendation would leave it to Parties to investment treaties to decide on the means of implementing the transparency standard in the context of existing investment treaties.

20. A possible recommendation might read as follows.

“The United Nations Commission on International Trade Law,

“Recalling its mandate under General Assembly resolution 2205 (XXI) of 17 December 1966 to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

“Recognizing the value of arbitration as a method of settling disputes that may arise in the context of international relations, and the wide use of arbitration for the settlement of investor-State disputes,

“Also recognizing the need for provisions on transparency in the settlement of treaty-based investor-State disputes to take account of the public interest involved in such arbitrations,

“Further recognizing that some States have adopted high transparency standards in certain treaties providing for the protection of investments or investors (“investment treaty”),

“Noting that the preparation of the Rules on Transparency adopted by the United Nations Commission on International Trade Law (UNCITRAL) on [date] was the subject of due deliberation in UNCITRAL and that it benefitted from extensive consultations with Governments and interested intergovernmental and international non-governmental organizations,

“Believing that the Rules on Transparency would contribute significantly to the establishment of a harmonized legal framework for a fair and efficient settlement of investor-State disputes arising under investment treaties,

“Noting that the Rules on Transparency apply to investor-State arbitration initiated under the UNCITRAL Arbitration Rules pursuant to an investment treaty concluded after the date of coming into effect of the Rules on

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<sup>14</sup> A/CN.9/736, paras. 134-135; see also A/CN.9/WP.166/Add.1, paras. 12-14.

Transparency, unless the Parties to the investment treaty have agreed otherwise,

“Further noting that in investor-State arbitrations initiated [(i)] under the UNCITRAL Arbitration Rules pursuant to an investment treaty concluded before the date of coming into effect of the Rules on Transparency, [or (ii) in treaty-based investor-State arbitrations initiated under other arbitration rules or ad hoc,] the Rules on Transparency shall apply, inter alia, when the Parties to the investment treaty or, in the case of a multilateral investment treaty, the home State of the investor and the respondent State, have agreed after the date of coming into effect of the Rules on Transparency to their application,

“Also noting the great number of investment treaties already in force, and the practical importance of promoting the application of the Rules on Transparency to arbitration under those already concluded investment treaties,

“1. Recommends that, subject to any provision in the relevant investment treaty that may require a higher degree of transparency, the Rules on Transparency be applied through appropriate mechanisms to investor-State arbitration initiated pursuant to an investment treaty concluded before the date of adoption of the Rules on Transparency, to the extent such application is consistent with those investment treaties;

“2. Also recommends that the Rules on Transparency be used or referred to by Governments, inter alia, in formulating necessary amendments or modifications to such investment treaties.”

## **B. Possible actions by Parties to investment treaties**

21. At its fifty-third and fifty-fourth sessions, the Working Group considered the possible actions that could be undertaken by Parties to investment treaties to ensure applicability of the rules on transparency to existing multilateral or bilateral investment treaties.<sup>15</sup> At the fifty-fourth session of the Working Group, joint interpretative declaration by States Parties pursuant to article 31(3)(a) of the Vienna Convention as well as amendment or modification to treaties according to article 39 ff. of the Vienna Convention were mentioned as possible instruments to ensure application of the transparency standard to existing investment treaties.<sup>16</sup>

22. Models of such instruments are proposed below. The options are intended to provide an illustration of such instruments, and have been drafted in a generic form so that they could be applied with the necessary adaptations to a diversity of investment treaties.

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<sup>15</sup> A/CN.9/712, paras. 85-86; A/CN.9/717, paras. 42-46.

<sup>16</sup> A/CN.9/717, paras. 42-45.

## 1. Draft models of joint or unilateral interpretative declarations

23. Possible draft models of joint interpretative declarations pursuant to article 31(3)(a) of the Vienna Convention could read as follows.

- Model 1 (Application irrespective of the arbitration rules)

“Understanding of Government of [ ] and Government of [ ] on the interpretation and application of certain provisions of the \_\_\_ [*name of the investment treaty*]

“The provision[s] of articles [*specific articles*] of the [*name of the investment treaty*] permitting an investor from a Contracting State to initiate an arbitration against another Contracting State under [*name of investment treaty*] shall be understood as including the application of the UNCITRAL Rules on Transparency. The Governments of the Contracting States [*listing the names*] have achieved the common agreement that this decision is the agreed and definitive interpretation of the relevant treaty provisions.”

- Model 2 (Application in the context of arbitrations under the UNCITRAL Arbitration Rules)

“The Governments of the Contracting States [*listing the names*] to the [*name of the investment treaty*] share the understanding that the term ‘UNCITRAL Arbitration Rules’ as used in [*specific articles*] of the [*name of the investment treaty*] includes the UNCITRAL Rules on Transparency.”

24. Possible draft model of a unilateral interpretative declaration pursuant to article 31(3)(a) of the Vienna Convention could read as follows.

“Understanding of Government of [*listing the names*] on the interpretation and application of certain provisions of the [*name of the investment treaty*]

“The provision[s] of articles [*specific articles*] of the [*name of investment treaty*] permitting an investor from a Contracting State to initiate an arbitration against another Contracting State [under the UNCITRAL Arbitration Rules] in the context of the [*name of investment treaty*] shall be understood as including the application of the UNCITRAL Rules on Transparency.”

## 2. Draft models of amendment or modification

25. Possible draft models of amendment or modification pursuant to article 39 ff. of the Vienna Convention on the Law of Treaties could read as follows.

- Model 1 (Application irrespective of the arbitration rules)

“Agreement on an Amendment to the [*name of the investment treaty*] between the Government of [ ] and the Government of [ ]

“The Government of [ ] and the Government of [ ] agreed to make the following amendments to the [*name of the investment treaty*]

“Article - [*number to be inserted*] of the Agreement is amended as follows:

“( ) The UNCITRAL Rules on Transparency shall apply to arbitrations initiated under [*provision on dispute settlement between an investor and the host State*] of the [*name of the investment treaty*].”

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- Model 2 (Application in the context of arbitrations under the UNCITRAL Arbitration Rules)

“Protocol Amending the [*name of the investment treaty*] between the Government of [\_\_\_\_] and the Government of [\_\_\_\_], signed on [date]

“The Government of [\_\_\_\_] and the Government of [\_\_\_\_],

“Considering:

“That a [*name of the investment treaty*] between the two Governments was signed on [date],

“That, during the period of validity of the Agreement, there has arisen the need to introduce certain amendments to achieve transparency in the settlement of investor-State disputes arising under the Agreement,

“Agree:

“To conclude the following Protocol amending the [*name of the investment treaty*] between the Government of [\_\_\_\_] and the Government of [\_\_\_\_], signed on [date].

“Article [*number to be inserted*]

“Article [*number to be inserted*] of the Agreement is amended as follows

“( ) The UNCITRAL Rules on Transparency shall apply to investor-State dispute settlement initiated [under the UNCITRAL Arbitration Rules] on the basis of the [*name of the investment treaty*].”