



## Online Preparatory Sessions for UNCITRAL Working Group III, 39<sup>th</sup> Session

September 8, 2020 Session

### ISDS Reform Implementation Options

#### Background Materials

This document provides Preparatory Session participants with the resources relevant to ISDS Reform Implementation Options. While all resources will be relevant for consideration of the issues raised, for purposes of the September 8<sup>th</sup> Preparatory Session we have selected several that are highly recommended to review in advance.

#### **Required Background Materials for September 8<sup>th</sup> Preparatory Session:**

1. **Video: UNCITRAL Webinar #1** on a Multilateral Instrument on ISDS Reform (23 April 2020) available at <https://uncitral.un.org/en/multilateralinstrumentwebinar>
  - a. **Relevant presentations are from 11:30 to 1:41:20**; Q & A is from 1:41:20 to 2:04:04; total duration = 2:04:05
  - b. **Participants have the option to watch this recording at 1.5x or 2.0x speed**
2. **Video: UNCITRAL Webinar #2** on a Multilateral Instrument on ISDS Reform (14 May 2020) available at [https://uncitral.un.org/en/multilateralinstrumentwebinar\\_20200514](https://uncitral.un.org/en/multilateralinstrumentwebinar_20200514) (Duration: 2:00:02;
  - a. **Relevant presentations are from 19:00 to 1:07:40**; Q & A is from 1:07:40: to 2:00:02;; total duration = 2:00:02
  - b. **Participants have the option to watch this recording at 1.5x or 2.0x speed**
3. **Paper: Note by the Secretariat** - Possible reform of investor-State dispute settlement (ISDS) Multilateral instrument on ISDS reform
  - a. available at <https://undocs.org/en/A/CN.9/WG.III/WP.194>

#### **Other Relevant Materials:**

##### **Academic Publications:**

1. Stephan W. Schill and Geraldo Vidigal, *Designing Investment Dispute Settlement à la Carte: Insights from Comparative Institutional Design Analysis*, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3519259](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3519259)
2. Anthea Roberts and Taylor St. John, *UNCITRAL and ISDS Reform: Visualising a Flexible Framework*, available at: <https://www.ejiltalk.org/uncitral-and-isds-reform-visualising-a-flexible-framework/>



3. Gabrielle Kaufmann-Kohler and Michele Potestà, *Can the Mauritius Convention serve as a model for the reform of investor-State arbitration in connection with the introduction of a permanent investment tribunal or an appeal mechanism?*. Available at:  
[https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/cids\\_research\\_paper\\_mauritius.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/cids_research_paper_mauritius.pdf)
4. Matthew Porterfield, Lise Johnson and Brooke Guven, *Reforming the International Investment Regime through a Framework Convention on Investment and Sustainable Development*, forthcoming (hopefully prior to) Sept. 8

**State Submissions to UNCITRAL WGIII** (those that specifically focus on the design of a multilateral implementation instrument):

1. Submission from the Government of Colombia; available at  
<https://undocs.org/A/CN.9/WG.III/WP.173>
2. Submission from the Government of Ecuador, available at:  
<https://undocs.org/A/CN.9/WG.III/WP.175>
3. Submission from the Governments of Chile, Israel, Japan, Mexico and Peru, available at:  
<https://undocs.org/A/CN.9/WG.III/WP.182>