



**United Nations Commission on  
International Trade Law  
Working Group III (Investor-State Dispute  
Settlement Reform)**

Fiftieth session

Vienna, 20–24 January 2024

## Possible reform of investor-State dispute settlement (ISDS)

### Additional provisions on procedural and cross-cutting issues and resources available to the Working Group

#### Note by the Secretariat

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## I. Introduction

1. At its forty-ninth session in September 2024, the Working Group considered draft provisions on procedural and cross-cutting issues contained in document [A/CN.9/WG.III/WP.244](#), with annotations to those provisions provided for in [A/CN.9/WG.III/WP.245](#) (A/CN.9/1194, paras. 57–104). At that session, the Working Group requested that draft provisions on submission by a non-disputing treaty party and joint interpretation be prepared for its consideration (A/CN.9/1194, para. 69). Accordingly, chapter II of this Note contains the additional draft provisions relating to interpretation by treaty parties and annotations thereto.

2. At that session, the Working Group was also informed that the additional resources granted to it by the General Assembly will expire at the end of 2025. The secretariat was requested to consider the possible implications and present options on how the Working Group could further its work, including within existing resources (A/CN.9/1194, para. 130). Chapter III contains the relevant information for the Working Group to consider.

## II. Additional provisions on procedural and cross-cutting issues

### 1. Draft provisions on treaty interpretation by parties to an international investment agreement

#### **Draft provision 21: Joint interpretation**

1. Parties to the Agreement may issue an interpretation jointly agreed by the Parties with regard to any provision of the Agreement (the “joint interpretation”), including through a body established for such a purpose under the Agreement.
2. Upon a request by a Party to the Agreement to issue a joint interpretation, the other Party or Parties to the Agreement shall give due consideration to that request.
3. The Tribunal may, at the request of a disputing party or on its own initiative, seek a joint interpretation of any provision of the Agreement that is the subject of the dispute.
4. A joint interpretation pursuant to paragraph 3 shall be issued within 90 days from the date the Tribunal seeks the joint interpretation. If the joint interpretation is not issued within the time period, the Tribunal shall decide the issue.
5. A joint interpretation issued pursuant to paragraphs 1 and 3 shall be binding on Tribunals established in accordance with the Agreement. Tribunals shall ensure that their decisions and awards are consistent with the joint interpretation.

#### **Draft provision 22: Submission by a non-disputing Treaty Party**

1. The Tribunal shall allow a Party to the Agreement that is not a party to the dispute (“non-disputing Treaty Party”) to make a submission on the interpretation of the Agreement at issue in the dispute. The Tribunal may, after consultation with the disputing parties, invite a non-disputing Treaty Party to make such a submission.
2. The Tribunal, after consultation with the disputing parties, may allow submissions on further matters within the scope of the dispute from a non-disputing Treaty Party. In determining whether to allow such submissions, the Tribunal shall take into consideration, among others:
  - (a) Whether the non-disputing Treaty Party has a significant interest in the proceedings;

(b) The extent to which the submission would assist the Tribunal in the determination of a factual or legal issue related to the proceedings by bringing a perspective, particular knowledge or insight that is different from that of the disputing parties, and

(c) The need to avoid submissions which would support the claim of the investor in a manner tantamount to diplomatic protection.

3. The Tribunal shall not draw any inference from the absence of any submission or response to any invitation pursuant to paragraphs 1 or 2.

4. The Tribunal shall ensure that a submission by a non-disputing Treaty Party does not disrupt or unduly burden the proceedings, or unfairly prejudice any disputing party.

5. The Tribunal shall ensure that the disputing parties are given a reasonable opportunity to present their observations on any submission by a non-disputing Treaty Party.

## 2. Annotations to the draft provisions on treaty interpretation by parties to an international investment agreement

3. Draft provisions 21 and 22 address interpretation by treaty parties to international investment agreements with the aim of increasing the involvement of those parties and providing them a control mechanism on treaty interpretation. In general, the draft provisions ensure that provisions in international investment agreements are interpreted in line with the treaty parties' intentions, promoting consistency and predictability of decisions on such provisions (see also [A/CN.9/WG.III/WP.191](#)).

4. Both provisions have been prepared as treaty provisions to modify or supplement an existing international investment agreement (referred to as the "Agreement"). Similarly, the term "Tribunal" refers to the adjudicatory body provided for in the Agreement to resolve disputes arising therefrom, including an arbitral tribunal.

### *Draft provision 21*

5. Draft provision 21 aims to clarify the meaning of joint interpretations as well as the means for issuing joint interpretations and to give binding effect to them.

6. Joint interpretation provisions in international treaties allow treaty parties to issue authoritative interpretations of the provisions in the treaties, clarifying the meaning of specific terms and the underlying intentions. Article 31(3) of the Vienna Convention on the Law of Treaties ("Vienna Convention") addresses joint interpretations<sup>1</sup> providing that subsequent agreements between Parties regarding the

<sup>1</sup> Article 31. General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
  - (a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;
  - (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
  - (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
  - (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
  - (c) any relevant rules of international law applicable in the relations between the parties.

interpretation of a treaty or the application of its provisions shall be taken into account.

7. However, a joint interpretation may not be inherently binding on Tribunals as the Vienna Convention does not expressly provide such an effect. Tribunals generally retain the discretion to consider the interpretation alongside other relevant factors, such as the text of the treaty, its context, and the object and purpose of the treaty. Giving binding effect to joint interpretations could therefore contribute to greater consistency and predictability and allow treaty parties to exercise control over the interpretation of their respective international investment agreements.

8. Some investment agreements take an institutional approach to joint interpretations by establishing joint commissions or committees responsible for addressing matters that might affect the operation of the treaty and for issuing interpretive statements.<sup>2</sup> Some agreements also provide that interpretations by such bodies must be followed by tribunals.<sup>3</sup> Even if such a body is not provided for in the investment agreement, treaty parties could issue joint interpretations ad hoc, for example, through consultations, exchanges of notes, or diplomatic correspondence.

9. Paragraph 1 affirms that Parties to the Agreement or a body established under that Agreement for such purpose have the authority to issue a joint interpretation at any time and in any form. Paragraph 2 encourages the Parties to the Agreement to cooperate in the issuance of the joint interpretation, particularly when one of the Parties makes such a request.

10. Paragraph 3 allows the Tribunal to seek a joint interpretation either at its own initiative or upon the request by a disputing party.<sup>4</sup> The Working Group may wish to consider whether the Tribunal should be obliged to seek a joint interpretation upon the request of a disputing party. It should also be noted that the respondent State may seek a joint interpretation with the other Party to the Agreement in accordance with paragraphs 1 and 2, without necessarily making the request to the Tribunal.

11. When a Tribunal seeks a joint interpretation pursuant to paragraph 3, the Parties to the Agreement or the body established under the Agreement for that purpose are requested to issue a joint interpretation within 90 days. The Working Group may wish to consider whether the time frame in paragraph 4 is appropriate. The second sentence of paragraph 4 provides that the Tribunal shall decide the issue when no joint interpretation is issued. This is to avoid delays to the proceedings. The Working Group may, however, wish to consider situations where the delay in issuing the joint interpretation may be justified.

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<sup>2</sup> For example, article 165 of the Japan-Mexico Free Trade Agreement (2004) states that the Joint Committee is composed of representatives of the Governments of the Parties and sets forth its functions. Article 26.1 of the Comprehensive Economic and Trade Agreement (CETA) provides that the Parties establish the CETA Joint Committee comprising representatives of the European Union and representatives of Canada. The Joint Committee shall be co-chaired by the Minister for International Trade of Canada and the Member of the European Commission responsible for Trade, or their respective designees. The Agreement between the United States of America, Mexico, and Canada (USMCA) (2018) establishes the Free Trade Commission under article 30.1 composed of government representatives of each Party at the level of Ministers or their designees. The functions of the Free Trade Commission are listed in article 30.2.

<sup>3</sup> For example, article 40(2) of the Association of Southeast Asian Nations (ASEAN) Comprehensive Investment Agreement states that any interpretation of the agreement jointly agreed upon by the parties shall be binding on any tribunal established under the agreement. Article 14.D.9(2) of USMCA (2018) provides that a decision of the Commission on the interpretation of a provision of the agreement shall be binding on a tribunal, and any decision or award issued by a tribunal must be consistent with that decision. Article 8.31(3) of CETA (2016) provides that an interpretation adopted by the Joint Committee shall be binding on a tribunal and that the Joint Committee may decide that an interpretation shall have binding effect from a specific date.

<sup>4</sup> Article 40 (3) of the ASEAN Comprehensive Investment Agreement (ACIA) 2012; article 30 (2) of Canada-China BIT 2012; article 24 (3) of Belarus-India BIT 2018.

12. Paragraph 5 addresses the binding effect of joint interpretations on Tribunals established in accordance with the Agreement. This includes the Tribunal that sought the joint interpretation pursuant to paragraph 3 as well as other Tribunals that are interpreting the provisions, which are the subject of the joint interpretation. While paragraph 5 ensures that a joint interpretation is binding on all pending and future disputes, the temporal scope of the binding effect might need to be clarified, particularly with regard to Tribunals established prior to the issuance of the joint interpretation (for example, whether a joint interpretation issued after an award is rendered should not have any binding effect and thus should not impact a subsequent set aside/annulment procedure). This question may require further analysis in the context of an appellate mechanism, including whether a joint interpretation issued after the first-tier award should have a binding effect on the appellate tribunal and whether joint interpretations could be used to rectify any errors made by the appellate tribunal.

13. In this regard, the Working Group may wish to consider whether the Parties to the Agreement or the body established under the Agreement could specify the date upon which the joint interpretation should have binding effect.

*Draft provision 22*

14. Draft provision 22 was prepared based on article 5 of the United Nations Commission on International Trade Law (UNCITRAL) Rules on Transparency in Treaty-based Investor-State Arbitration (“Transparency Rules”) and Rule 68 of the International Centre for Settlement of Investment Disputes (ICSID) Arbitration Rules. It provides the framework for submissions by a Party to the Agreement that is not a party to the dispute (referred to as “non-disputing Treaty Party”). Such provisions are found in investment agreements and arbitration rules, as non-disputing Treaty Party submissions can help Tribunals understand the broader context and intended meaning of the treaty provisions.

15. Paragraph 1 provides that the Tribunal shall permit submissions by non-disputing Treaty Parties and may further invite them to make such submissions on the interpretation of the Agreement at issue in the dispute. In other words, it obliges the Tribunal to accept such submissions by non-disputing Treaty Parties when made. It also obliges the Tribunal to consult the disputing parties before inviting for such submissions. The Working Group may wish to consider whether the phrase “subject to paragraph 4” found in article 5(1) of the Transparency Rules should be retained in paragraph 1 as a condition for allowing non-disputing Treaty Party submissions.

16. The submissions referred to in paragraph 2 are different in scope as they deal with submissions on “further matters within the scope of the dispute” from a non-disputing Treaty Party. This is based on article 5 of the Transparency Rules which conflates non-disputing Treaty Party submissions on treaty interpretation and those on other matters. The Working Group may wish to consider whether such submissions, which do not relate to the interpretation of the Agreement, should be addressed in draft provision 22.

17. Paragraph 2 gives guidance to the Tribunal on whether to allow submission on further matters within the scope of the dispute by listing several relevant factors to consider, based on article 5(2) of the Transparency Rules, which makes reference to article 4(3).

18. Paragraph 3 clarifies that the Tribunal should not make any assumption or draw conclusions based on the absence of or failure by non-disputing Treaty Parties to provide submissions.

19. The first sentence of paragraph 4 obliges the Tribunal to ensure that non-disputing Treaty Party submissions do not disrupt or unduly burden the proceedings, or unfairly prejudice any disputing party. For example, when inviting a non-disputing Treaty Party to make a submission pursuant to paragraph 1, the Tribunal may consider imposing conditions on the submission, including the format, length, scope or

publication of the submission, and the time period to make the submission (ICSID Arbitration Rules, Rule 68(2) second sentence).

20. Paragraph 5, based on Rule 68(4) of the ICSID Arbitration Rules, allows disputing parties to make observations on the non-disputing Treaty Party submission.

### III. Resources planning

#### 1. Introduction

21. In 2021, the General Assembly decided to allocate one additional one-week session per year for a single period of four years from 2022 to 2025 and additional support to the Commission to allow the Working Group to continue to implement its work with respect to ISDS reform, on the condition that the Commission would during its annual sessions re-evaluate and, if needed, revisit its decision concerning the need for allocating an additional one-week session to Working Group and related support based on its annual report on the use of its resources.<sup>5</sup>

22. The decision by the General Assembly was based on the recommendation by the Commission at its fifty-fourth session that additional conference time and supporting resources be allocated to the secretariat (A/76/17, para. 263), which was based on information about the resource requirements to implement the ISDS reform provided in document A/CN.9/1063.<sup>6</sup> During the discussions, broad support was expressed that that additional conference time would be useful for the Working Group to maintain its momentum and advance on its work (A/76/17, para. 258).

#### 2. Resources utilized from 2022–2025

23. Based on the allocation of one additional one-week session per year, the Working Group was able to hold three weeks of sessions per year (two weeks with existing resources and one week with additional resources) – comprising one week in New York and two weeks in Vienna. The Working Group held the three additional sessions in Vienna: one-week of the two-week forty-third session in September 2022, a one-week forty-fourth session in January 2023 and a one-week forty-seventh session in January 2024. The additional week in 2025 will be used for the fiftieth session in January 2025 also in Vienna.

24. The outcomes of the Working Group’s deliberations were considered by the Commission at its fifty-sixth session in 2023 and fifty-seventh session in 2024.

25. Table 1 provides an overview of the conference<sup>7</sup> and document<sup>8</sup> resources utilized by the Working Group and the Commission from 2022 to January 2025 on ISDS reform.

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<sup>5</sup> Resolution adopted by the General Assembly on 24 December 2021, A/RES/76/229, para. 15.

<sup>6</sup> At its resumed fortieth session in May 2021, the Working Group considered a workplan (A/CN.9/1054, annex), which was generally accepted as providing a flexible road map for progress to be made so that the details could be adapted as progress was made. Considering that the workplan was prepared on the basis of a resource request for one additional one-week session per year from 2022 to 2025, the Working Group requested the secretariat to revise the document on resource implications and present it to the Commission (A/CN.9/1054, paras. 35 and 36).

<sup>7</sup> Mainly the conference venue and related servicing (for example, document distribution and technical support) as well as interpretation into the official languages of the United Nations.

<sup>8</sup> Mainly formatting, translation into the official languages of the United Nations as well as the publication and printing of documents.

Table 1  
**Overview of resources utilized by the Working Group<sup>9</sup>**

	<i>Conference resources</i>	<i>Notes by the Secretariat</i>	<i>Submissions by States</i>	<i>Reports of the Working Group or the Commission</i>
Working Group (42nd to 50th sessions)	10 weeks	36 working papers averaging 15 pages	5 submissions averaging 12.5 pages	9 reports averaging 24.6 pages
Commission (55th to 57th sessions)	8.5 days	6 working papers averaging 15.5 pages	None	3 reports – 55 pages in total on ISDS reform

26. In addition, from the 42nd to the 50th sessions, a total of 13 informal papers averaging 20 pages each were prepared by the secretariat in English only. During the same period, a total of 28 submissions/written comments were received by the secretariat from States and observers and posted on the Working Group website in the language received.

27. The above illustrates a steep increase in the number of working papers prepared by the secretariat as well as in the number of State submissions, which were not translated into the official languages of the United Nations. As a comparison, during the 2017–2021 period when the Working Group met for 9 weeks and 2 days (34th to 41st sessions), the secretariat had prepared 27 working papers averaging 12.9 pages and States had submitted 35 submissions averaging 8 pages that had been translated (see table 1 in A/CN.9/WG.III/WP.206). Furthermore, the fact that the Working Group and Commission meetings take place every three months (on average) and the need for documents to be submitted 10 weeks in advance of the sessions for translation, put a heavy burden on the secretariat to produce the documents within a very short period, sometimes right after a session.

*Informal meetings – intersessional and other meetings of the Working Group and informal process initiated by the Commission*

28. During the 2022–2025 period, the number of informal meetings also increased.

29. Three intersessional meetings of the Working Group were held. The 6th intersessional meeting was held on 7 and 8 September 2023 in Singapore and focused on the topics of a proposed standing multilateral mechanism and an appellate mechanism.<sup>10</sup> For that meeting, the secretariat prepared five documents as initial drafts to facilitate the deliberations. The 7th intersessional meeting was held in Belgium on 7 and 8 March 2024 and focused on the standing mechanism, the advisory centre and certain procedural rules and cross-cutting issues, and how they can contribute to better access to justice for all.<sup>11</sup> The 8th intersessional meeting was held in China on 24 and 25 October 2024 and focused on an appellate mechanism and a multilateral instrument on ISDS Reform.<sup>12</sup>

30. During the same period, seven informal meetings were held on: 20 January 2022 (Joint ICSID-UNCITRAL informal meeting on article 4 of the draft code of conduct); 2–3 March 2022 (Informal meeting on appellate mechanism); 23–24 March 2022 (Informal meeting on the draft code of conduct); 5 May 2022 (Forum for further preparatory work on investment mediation); 7–10 June 2022 (Informal online meeting on the draft code of conduct, procedural rules reform and multilateral instrument on ISDS reform); 7–8 March 2023 (Informal meeting on the draft code of conduct); and

<sup>9</sup> This table takes into account all official documents produced for the Working Group that have been translated into the official United Nations languages. For the sake of simplicity, documents issued as addenda are counted as separate documents and the average length of the document is calculated based on their English version.

<sup>10</sup> Information available at <https://uncitral.un.org/en/6thintersessional>.

<sup>11</sup> Information available at <https://uncitral.un.org/en/content/seventh-inter-sessional-meeting>.

<sup>12</sup> Information available at <https://uncitral.un.org/en/8thintersessional>.

7 July 2023 (Forum on dispute prevention in ISDS). The secretariat prepared nine documents, including summaries of the meetings. In addition to these informal meetings, a total of 35 side events were organized in conjunction with the Working Group sessions.

31. The first meeting on the operationalization of the Advisory Centre on International Investment Dispute Resolution (the “Advisory Centre”) was held in Thailand from 2 to 4 December 2024.<sup>13</sup> The secretariat prepared five background documents to facilitate the discussions, namely on ways to establish the Advisory Centre within the United Nations system, classification of Members; and criteria to determine the location of the headquarters and regional offices.

32. For the meetings mentioned above, the secretariat provided extensive substantive support, such as drafting the programme, identifying speakers and providing logistical and travel support.

#### *Human resources*

33. Based on the allocation of additional human resources by the General Assembly, a slightly larger secretariat team has provided servicing to the Working Group from 2022–2025. The current team includes one senior legal officer (P-5) functioning as the secretary of the Working Group, two legal officers (P-4, P-2), one junior professional officer (P-2)<sup>14</sup> and one legal assistant (G-6). Apart from one legal officer (P-2), the remaining team members support other activities of the Commission as well as other Working Groups.

34. While the General Assembly allocated three additional posts (P-3, P-2, G-6) to support the Working Group at the end of 2021, the secretariat was able to fill those positions respectively in September, August and July 2022.<sup>15</sup> This was mainly due to the lengthy recruitment process. Furthermore, the P-3 post became vacant as of October 2023 due to the secondment of the recruited staff member. The secretariat was not able to fill the post subsequently due to the liquidity crisis affecting the United Nations. It is unlikely that the post can be filled due to the continued hiring restrictions and limited period remaining on the post (end of 2025).<sup>16</sup> Overall, the utilization rate of the human resources will be 67 per cent by the end of 2025.

### **3. Updated workplan**

35. Based on the previous workplan prepared by the Working Group in May 2021 (A/CN.9/1054, annex), an updated workplan (referred to below as the “new workplan”) was prepared in light of the progress made by the Working Group so far and reflecting the resources utilized by the Working Group from 2022–2025.

36. The new workplan was prepared on the assumption that the additional resources allocated to the Working Group could be extended for two more years (2026 and 2027) with the Commission finalizing the ISDS reform in 2027. The new workplan took into account the fact that requests for additional resources should be limited in time and the prevailing liquidity crisis in the United Nations. The new workplan is presented to the Working Group for its consideration.

37. As with the previous workplan, the new workplan is only notional and adjustments will need to be made as work progresses. It aims to serve as a basis for monitoring the progress made by the Working Group and the Commission. Should the

<sup>13</sup> The Commission finalized and adopted in principle the Statute of the Advisory Centre in 2024 and agreed that the operationalization of the Advisory Centre would require further preparatory work. The Commission requested the secretariat to provide support for the preparatory work and the informal process, including the preparation of informal documents (see A/79/17, paras. 159–161).

<sup>14</sup> The post is funded by the government of France with the term expiring at the end of 2024.

<sup>15</sup> See *Official Records of the General Assembly, Seventy-eighth Session, Supplement No. 17* (A/78/17), para. 150.

<sup>16</sup> *Ibid.*, *Seventy-ninth Session, Supplement No. 17* (A/79/17), para. 245.



Working Group decide to develop other reform elements not captured in the new workplan, it will need to be adjusted and identify the time required.

38. The new workplan envisages work to be undertaken through Working Group sessions as well as using various other means intersessionally. According to the new workplan, a total of 42 days of Working Group meetings and 15 days of Commission meetings are required to complete the ISDS reform. It is proposed that they be carried out in eight one-week and one two-day Working Group sessions over a period of three years beginning in 2025, with one additional one-week session taking place per year from 2025 to 2027.

39. It is foreseen that the Working Group would devote 10 days to procedural and cross-cutting issues, 4 days to the standing mechanism, 6 days to the appellate mechanism, 4.5 days to the multilateral instrument on ISDS reform, and half a day to the toolkit on dispute prevention and mitigation prior to the fifty-ninth session of the Commission in 2026, when it is expected that most of the reform elements would be adopted in principle (the agenda of the 1.5 days in February 2025 is yet to be determined). Following that session of the Commission, it is expected that the Working Group would devote most of its time (nine days) to the multilateral instrument on ISDS reform and four days for the transformation of certain reform elements into protocols. Two days have been allocated for the consideration of the selection and appointment of arbitrators, which the Working Group has yet to address. The new workplan foresees that the multilateral instrument on ISDS reform and the protocols will be finalized at the sixtieth session of the Commission in 2027. The Working Group session in the fall of 2027 following that session of the Commission in 2027 (not shown in the new workplan) may be devoted to remaining issues relating to the implementation of the ISDS reforms.

40. The new workplan assumes that five days of the annual Commission session (from the fifty-eighth to the sixtieth session) will be devoted to work resulting from the Working Group on ISDS reform (a total of 15 days of Commission meetings from 2025 to 2027).

41. In the new workplan, the fifty-fourth and fifty-sixth session of the Working Group would be held with additional conference time (marked with \*\*). Considering that the decision by the General Assembly to grant additional resources will only be made at the end of 2025, it is suggested that the additional week in 2025 in Vienna take place after the week in New York (which would be held with existing resources, possibly in February), which would allow time to make necessary preparations.

42. While it had been possible to hold some of the Working Group meetings in hybrid format and more recently broadcast the meetings via UN WebTV, it is uncertain whether the rules governing official meetings and the resources available to the secretariat would allow for such practice to continue. In that regard, the new workplan assumes that all Working Group sessions will be held in person. Should the Working Group and Commission wish to consider remote meetings, additional costs would need to be reflected in the programme budget.

43. The new workplan also foresees that the Working Group would continue to use the last day of each session for substantive deliberations and adopt the report after the session through a written procedure. This approach has allowed the Working Group to save 0.5 to one day per session and thereby effectively prolong the meeting time by 10 to 20 per cent.<sup>17</sup> It should, however, be noted that this practice puts a heavy burden on the secretariat to process in-session documents after the session and to compile and communicate all comments received on the draft report in order for it to be adopted through a written procedure. The adoption of the reports usually takes about three weeks following the session.

<sup>17</sup> The Commission decided to allow Working Group III (and any other working group, when the need arose) to use the final meeting of its sessions for substantive deliberations, rather than for the adoption of the session report, and to continue the practice of adopting the report by a written procedure (see [A/77/17](#), para. 236).

44. The new workplan currently foresees one intersessional meeting scheduled to be held in Chile in October 2025. The new workplan also foresees one additional meeting on the operationalization of the Advisory Centre on International Investment Dispute Resolution as initiated by the Commission in 2024 (Armenia in May 2025). It is expected that there will be additional intersessional as well as operationalization meetings.

45. In contrast to the official meetings of the Working Group, these informal meetings should allow for remote participation to alleviate concerns expressed about burdens on time and costs associated with in-person attendance. Joint work or meetings with other organizations may also be envisaged (for example, a joint event may be held with the United Nations Conference on Trade and Development and the Organisation for Economic Co-operation and Development in March 2025).

		Procedural and cross-cutting issues	Standing mechanism	Appellate mechanism	Multilateral instrument on ISDS Reform	Toolkit on dispute prevention and mitigation	Selection and appointment of arbitrators	Operationalization of the Advisory Centre	
2025	Working Group #50	January (Vienna)	2 days		2 days	1 day			
	Intersessional #50								
	Working Group #51 Part One	February (New York)	1.5 days (format and agenda to be determined)						½ day
	Working Group #51 Part Two	April (New York)	2 days	2 days		1 day			
	Intersessional #51								3 days in May (Yerevan)
		<b>Commission #58 (Vienna – 5 days) – Certain provisions on procedural and cross-cutting issues and of the statute of a standing/appellate mechanism</b>							
	Working Group #52	September (Vienna)	2 days		2 days	1 day			
Intersessional #52		2–3 days in October (Santiago – agenda to be determined)							
2026	Working Group #53	February (New York)	2 days	2 days		½ day	½ day		
	Intersessional #53								
	Working Group #54**	April (Vienna)	2 days		2 days	1 day			
	Intersessional #54								
		<b>Commission #59 (New York – 5 days) – Remaining provisions on procedural and cross-cutting issues and the statute of a standing/appellate mechanism and the toolkit on prevention and mitigation of international investment disputes</b>							
	Working Group #55	October (Vienna)				3 days		2 days	
	Intersessional #55								

		Procedural and cross-cutting issues	Standing mechanism	Appellate mechanism	Multilateral instrument on ISDS Reform	Toolkit on dispute prevention and mitigation	Selection and appointment of arbitrators	Operationalization of the Advisory Centre
2027	Working Group #56**	January (Vienna)	1 day (protocol)	1 day (protocol)	3 days			
	Intersessional #56							
	Working Group #57	April (New York)	1 day (protocol)	1 day (protocol)	3 days			
	Intersessional #57	Commission #60 (Vienna – 5 days) –Multilateral Instrument on ISDS Reform and its protocols including the Statute of the Advisory Centre and all other texts that have been adopted in principle						

#### 4. Additional resource requirements for 2026–2027

46. This section provides an illustration of the additional conference time and resources that will be required if work is carried out in accordance with the new workplan.

##### *Conference resources*

47. Based on the new workplan, two additional weeks of conference time are required, one in 2026 and one in 2027. This would be in addition to the three weeks of Working Group conference time and two weeks of Commission conference time using existing resources. As noted in paragraph 42 above, additional resources may be required to allow for remote participation in these meetings.

48. Meetings of the Commission and its working groups are held using conference time allotted to UNCITRAL, which is currently a maximum of fifteen weeks per year. Therefore, the Working Group could, in principle, request the Commission to allocate any unused conference time of the Commission<sup>18</sup> or other working groups to Working Group III.<sup>19</sup>

##### *Document resources*

49. As illustrated in table 1, there has been increased utilization of document resources since 2022. This is the result of several reform options being developed at the same time and due to the scale and complexity of the reform elements. As the Working Group finalizes its work, in particular the multilateral instrument on ISDS reform and its protocols, it would be necessary that all relevant documents as well as submissions by States are available in all official languages of the United Nations.

50. It is evident that a high volume of documents will need to be presented to the Working Group and the Commission, including summaries of the intersessional and informal meetings. This would be regardless of whether the two additional weeks of conference time would be allocated.

51. An additional factor to consider is that document resources are currently impacted by measures taken to address the liquidity crisis affecting the United Nations. This includes official documentation submitted by Member States, which can be processed and translated on an as available basis only, along with other similar measures that may impact the issuance of relevant documents.<sup>20</sup>

##### *UNCITRAL secretariat resources*

52. The servicing of the sessions of the Working Group, providing support to intersessional and informal meetings as well as the implementation of the reform elements adopted by the Commission would require the current team servicing the Working Group to be retained at a minimum. This would be critical for maintaining the secretariat's performance and ensuring continuity in the delivery of the ISDS reform.

53. With the finalization of a number of ISDS reform elements, there have been increased requests for the secretariat to undertake capacity-building and technical assistance activities to support States in their implementation of reforms. Considering that there are limited resources within the secretariat to carry out such activities, it would be necessary to retain the additional human resources granted by the General Assembly in 2021.

<sup>18</sup> With regard to unused Commission time, the Commission had indicated its understanding that two weeks for its annual sessions would generally be sufficient. See [A/74/17](#), para. 331.

<sup>19</sup> For example, the first part of the fifty-first session of the Working Group (17–18 February 2025) is scheduled to utilize the conference resources originally allocated to Working Group I.

<sup>20</sup> See letter of 29 February 2024 addressed by the Director-General/Executive Director of UNOV/UNODC to Member States outlining the measures taken by UNOV/UNODC, mainly relating to conference services, to operate within the reduced spending ceiling.

54. This also relates to the operationalization of the Advisory Centre, whereby the Commission requested the secretariat to provide support for the preparatory work and the informal process, including the preparation of informal documents.<sup>21</sup>

## 5. Programme budget implications

55. If the Working Group and eventually the Commission decides to recommend to the General Assembly that additional conference time and support be allocated to the Commission for finalizing the ISDS reform, it will then need to be reflected in the draft resolution submitted to the Sixth Committee of the General Assembly. In that process, the budgetary implications of the request on the programme budget (mainly Section 2 – General Assembly and Economic and Social Council affairs and conference management and Section 8 – Legal affairs) would be reviewed by different bodies, including the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and the Fifth Committee of the General Assembly.

56. This section provides an overview of the programme budget implications. All figures in this section are subject to further verification by the Programme Planning and Budget Division (PPBD).

### *Conference resources*

57. An additional session of the Working Group would consist of 10 meetings (two per day consisting of three hours) in Vienna. In addition to the provisions of the venue and conference servicing, these meetings would require interpretation in all official languages of the United Nations, which would need to be reflected in the budget of DGACM. This would entail additional resource requirements for meetings services in the amount of approximately \$160,000 per each additional week (Vienna-based figures).

### *Document resources*

58. An additional week of conference time would increase the documentation to be handled by DGACM, mainly translation of the documents into the official languages of the United Nations. Even if the additional week of conference time is not sought, it is likely that the documents to be handled during the existing conference time would increase. This would have to be reflected in the budget of DGACM.

59. Based on previous sessions of the Working Group, the secretariat would prepare an average of five documents per one-week session. Overall, the additional document workload per session would be four pre-session documents (total of 34,000 words),<sup>22</sup> six in-session documents (total of 10,700 words) and one post-session document (total of 10,700 words). This would entail additional resource requirements for documentation services in the amount of \$201,455 yearly.<sup>23</sup>

<sup>21</sup> *Official Records of the General Assembly, Seventy-ninth Session, Supplement No. 17 (A/79/17)*, para. 167.

<sup>22</sup> One provisional agenda and three notes by the secretariat, all estimated at 8,500 words. There is a limitation on documents originating in the secretariat, which should be no longer than 16 pages (8,500 words). Intergovernmental bodies are invited to consider, where appropriate, reducing their report to 20 pages (10,700 words). See General Assembly Resolution [52/214](#), section B, paras. 4 and 7 (reiterated in [53/208](#), [59/265](#)).

<sup>23</sup> Based on figures provided by document management services in Vienna. Cost of translation of one English Standard Page (ESP, which consists of 330 words) into one other language is set at 240 USD. The programme budget implication rate may vary depending on where the document services are to be provided.

*UNCITRAL Secretariat resources*

60. To ensure that the work programme of the Commission is not adversely affected, it is suggested that the three posts outlined in table 2 below are retained. This would entail additional resource requirements of approximately \$393,300 per year.<sup>24</sup>

61. As outlined in paragraphs 52 to 54 above, the workload related to the preparation of working papers remains substantial, regardless of whether additional conference time is allocated. Furthermore, the secretariat is required to support informal processes related to the operationalization and implementation of reform elements, as well as to provide technical assistance and capacity-building on ISDS reform elements that have already been adopted.

62. The administrative support required for the Working Group is also more substantial than for any other working group, as the average number of participants is significantly higher (33 to 50 per cent more registered participants). Additionally, in the context of the Working Group, the UNCITRAL trust fund provides travel assistance to representatives from developing States to enable their participation in the Working Group's deliberations and intersessional meetings.<sup>25</sup> This arrangement adds administrative burden for the secretariat, which must manage the additional responsibilities associated with facilitating the travel support.

Table 2

**Human resources**

	<i>Budget</i>
Legal Officer (P-3)	\$161 600
Associate Legal Officer (P-2)	\$133 000
Legal Assistant (G-6)	\$98 700
<b>Total</b>	<b>\$393 300</b>

63. In conclusion, the programme budget implication would be as follows.

Table 3

**Programme budget implications per year**

		<i>Estimates</i>
Section 2 – General Assembly and Economic and Social Council Affairs and Conference Management	Conference resources	\$160 000
	Document resources	\$201 445
Section 8 – Legal affairs	Human resources	\$393 300
<b>Total</b>		<b>\$754 745</b>

**6. Concluding remarks**

64. As mentioned in the introduction, the objective of this chapter is to provide the Working Group with information on the new workplan and the conference, document and human resource requirement to complete the ISDS reforms. Upon reviewing the workplan and the resourcing plan, it may wish to determine whether to request the Commission to recommend to the General Assembly that additional conference and supporting resources be allocated to the secretariat for a period of two more years (2026–2027). Considering the budget situation of the United Nations, it will be challenging to obtain additional regular budget resources when the overall budget is being heavily scrutinized. Therefore, it would be important for the Working Group

<sup>24</sup> Based on UNOV/UNODC Revised Standard Salary Costs (2024–2027) for Vienna. For the post funded by the regular budget, the figure for “continuing” staff cost in 2025 was used.

<sup>25</sup> *Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 17 (A/74/17)*, para. 165.

and the Commission to signal the importance of ISDS reforms and the need to deliver results within the set time frame in its recommendation to the General Assembly.

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