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Working Group III

Virtual Pre-Intersessional Meeting

The Use of Mediation in ISDS

09 LIVE CAST
NOVEMBER, 2020

In the work of Working Group III of the United Nations Commission on International Trade Law (UNCITRAL) on the possible reform of investor-State dispute settlement (ISDS), the use of mediation in resolving ISDS disputes is a topic that is being studied.

Mediation, which emphasises harmony, can offer unique benefits, such as providing host jurisdictions and foreign investors with a high degree of autonomy, flexibility and creative, forward-looking and consensual settlement arrangements in resolving international investment disputes, preserving the long-term relationships between the disputing parties as well as saving costs and time. Mediation can also complement the use of investment arbitration to broaden the options of ISDS.

In order to contribute to the discussion of UNCITRAL Working Group III on mediation, a virtual pre-intersessional meeting will be held on 9 November 2020 (GMT+8 time zone). World-renowned experts, including those from governments and international organisations, mediators, practitioners as well as academics will discuss various topical issues of investment mediation. These topical issues will cover how to overcome challenges to the use of mediation in ISDS, the design of mediation protocols in a multi-tiered dispute resolution process, the process design in hybrid models of arbitration and mediation, and the way forward for mediation as a reform option for ISDS.

Delegations of UNCITRAL Working Group III and those who are interested in the use of mediation in ISDS are most welcome to register to join the virtual pre-intersessional meeting.



CPD POINTS BEING APPLIED FOR

Enquiries: events@aail.org

Free Registration: <https://events.aail.org/en/event/2020-UNCITRAL-WGIII/>

UNCITRAL Working Group III Virtual Pre-Intersessional Meeting

The Use of Mediation in ISDS

Provisional Agenda

9 Nov 2020

TIME (GMT+8)	MORNING SESSIONS
09:00 - 09:15	<p>OPENING CEREMONY</p> <p>Opening Remarks Ms Li Yongjie Director-General, Department of Treaty and Law, Ministry of Commerce, People's Republic of China</p> <p>Opening Remarks Ms Anna Joubin-Bret The Secretary, UNCITRAL</p>
09:15 - 10:35	<p>SESSION 1 – OVERCOMING CHALLENGES TO THE USE OF MEDIATION IN ISDS</p> <p>Moderator: Mr Shane Spelliscy Chair of UNCITRAL Working Group III; General Counsel and Director, Investment and Services Law, Global Affairs Canada</p> <p>Speakers: Mr Justin D'Agostino CEO, Herbert Smith Freehills Topic: A Practitioner's Perspective on Overcoming Challenges to the Greater Use of Mediation for ISDS</p> <p>Ms Meg Kinnear Secretary General, ICSID Topic: ICSID's Perspective on Facilitating the Greater Use of Conciliation and Mediation for ISDS</p> <p>Professor Jaemin Lee Representative of the Korean Delegation; Professor, School of Law, Seoul National University Topic: Korea's Experience in Dispute Prevention and Mediation for ISDS</p> <p>Ms Mairée Uran Bidegain Head, Program for the Defense of the State in International Investment Arbitration, Vice-Ministry of Trade, Ministry of Foreign Affairs, Chile Topic: Explore the Use of a Multilateral Instrument on ISDS Reform to Encourage the Use of Mediation</p> <p>Q & A Panel Discussion</p>
10:35 - 11:35	<p>SESSION 2 – MULTI-TIERED DISPUTE RESOLUTION PROCESS (MEDIATION PROTOCOL)</p> <p>Moderator: Dr Anthony Neoh QC SC JP Chairman, Asian Academy of International Law</p> <p>Speakers: Mr Wolf von Kumberg International Mediator and Arbitrator Topic: How to Overcome the Obstacles to the Integration of Mediation with Arbitration in a Multi-Tiered Dispute Resolution Process</p> <p>Professor Jack J. Coe Jr. Professor of Law, Caruso School of Law, Pepperdine University Topic: Considerations in the Design of Effective Mediation Protocols for International Investment Agreements</p> <p>Mr Ronald Sum Head of Dispute Resolution (Asia), Addleshaw Goddard LLP Topic: Innovative Aspects of the Investment Mediation Rules under the CEPA Investment Agreement</p> <p>Q & A Panel Discussion</p>

TIME (GMT+8)	AFTERNOON SESSIONS
16:00 - 17:35	<p>SESSION 3 – HYBRID MODELS FOR RESOLVING INTERNATIONAL INVESTMENT DISPUTES</p> <p>Moderator: Ms Natalie Morris-Sharma Rapporteur of UNCITRAL Working Group III; Government Legal Counsel, Attorney-General's Chambers, Singapore</p> <p>Speakers: Mr Barton Legum Partner, Global Co-Chair, Litigation and Dispute Resolution, Dentons Topic: Legal Issues in the Use of Hybrid Models of Arbitration and Mediation for ISDS</p> <p>Mr Francis Xavier SC President, Chartered Institute of Arbitrators Topic: The Use of Mandatory Mediation in a Hybrid Dispute Resolution Model</p> <p>Mr Cao Lijun Partner, Zhong Lun Law Firm Topic: Chinese Perspective and Experience on the Use of Hybrid Models</p> <p>Ms Blanca Salas Ferrer Legal Officer, Directorate-General Trade, European Commission Topic: The European Union's Views on the Functioning of Mediation in the Context of a Multilateral Investment Court</p> <p>Professor Hi-Taek Shin Emeritus Professor of Law, Seoul National University School of Law Topic: The Potential for Arbitrators to Also Act as Mediators for Facilitating Settlement of Disputes</p> <p>Q & A Panel Discussion</p>
17:35 - 18:40	<p>SESSION 4 – THE WAY FORWARD FOR MEDIATION AS A REFORM OPTION FOR ISDS</p> <p>Moderator: Ms Anna Joubin-Bret The Secretary, UNCITRAL</p> <p>Speakers: Mr Alejandro Carballo-Leyda General Counsel and Head of Conflict Resolution Centre, International Energy Charter Topic: Tools for Promoting the Greater Use of Mediation by States in ISDS</p> <p>Mr Charlie Garnjana-Goonchorn Counsellor, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Thailand Topic: Provision of Mediation Services by an Advisory Centre on ISDS</p> <p>Mr Reetoo Dinay Principal State Counsel, Attorney-General's Office, Mauritius Topic: The Role of Capacity Building in the Way Forward for the Use of Mediation in ISDS by States</p> <p>Q & A Panel Discussion</p>
18:40 - 18:55	<p>CLOSING REMARKS</p> <p>Ms Teresa Cheng GBS SC JP Secretary for Justice, the Hong Kong Special Administrative Region of the People's Republic of China</p>