



EUROPEAN COMMISSION

Directorate-General for Trade

The Director General

Brussels

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[Art. 4.1(b)]

**NOTE FOR THE ATTENTION OF MARIA ÅSENİUS  
HEAD OF CABINET OF COMMISSIONER CECILIA MALMSTRÖM**

**Re: Multilateral investment court – Preparation for second meeting in  
UNCITRAL (23-27 April 2018) and further steps in 2018**

This note provides information on DG TRADE's preparations and expectations for the upcoming meeting of the United Nations Commission on International Trade Law (UNCITRAL) Working Group (WG) III on reform of Investor-State Dispute Settlement (ISDS) which will take place in New York on 23 to 27 April 2018. It also touches on some of the further steps we expect on this file during 2018.

**Stocktaking and expectations of the UNCITRAL meeting**

In the first meeting of the WG in November 2017, discussions did not cover all issues identified in UNCITRAL Secretariat's paper "Possible reform of investor-State dispute settlement (ISDS)" that guided discussions under step 1 of the mandate of the WG. To recall, the WG was instructed by the UNCITRAL Commission to (i) examine the problems of ISDS, (ii) consider whether reform is necessary and (iii) if so, design possible solutions. The first meeting saw discussions on duration and costs, transparency and consistency and coherence of ISDS. It is expected that issues connected to the finality of ISDS awards, arbitrators' appointment and ethical requirements and ISDS legitimacy will be covered during the meeting in April.

[Arts. 4.1(a) and 4(3)]

The WG will also have to adopt the remaining parts of the report of the November meeting that were not adopted at the time due to time constraints.

[Arts. 4.1(a) and 4(3)]

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DG TRADE has been working on other elements of the UNCITRAL process. After a number of EU stakeholders expressed their disappointment at not being granted observer status at the November meeting of the WG, DG TRADE has raised this with the UNCITRAL Secretariat. These efforts have borne fruit and the efforts and results of DG TRADE have been positively recognised by a number of NGOs active in Brussels. Within the EU, stakeholders will have the opportunity to exchange with DG TRADE on this initiative in the context of a dedicated stakeholder event in April that will also be livestreamed. This is one of a series of dedicated events that the DG has been and will continue to organise in advance of each WG.

DG TRADE has also been working to ensure that the EU can make a contribution to the UNCITRAL trust fund covering travel costs of developing countries' delegates to the meetings of WG III. These efforts will hopefully contribute substantially to the purpose of ensuring that reform of ISDS be as inclusive as possible.

[Arts. 4.1(a) and 4(3)]

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