



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate F - WTO, Legal Affairs and Trade in Goods
Dispute Settlement and Legal Aspects of Trade Policy

Brussels, 6 September 2018

F.2 [REDACTED] (2018) 4625762

[Art. 4.1(b)]

MEETING REPORT

Subject: Second meeting of UNCITRAL Working Group III on ISDS reform

The second meeting of the United Nations Commission on International Trade Law (UNCITRAL) Working Group III, tasked with the mandate to examine a possible reform of the current Investor-State Dispute Settlement (ISDS) and eventually to create a multilateral investment court took place on 23 to 27 April 2018 in New York. More than 60 delegations (plus 28 Member States) and around 50 observer organisations participated in the meeting.

In broad terms, there was substantial agreement that there are significant concerns with only a few countries minimising these concerns or calling for additional evidence and reflection. Compared to the previous meeting of the WG, this session saw significantly more assertive and focussed statements and positions as well as the presence of more senior officials leading a number of delegations. [REDACTED]

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

Substantive discussions

Discussions on step 1 of the mandate (identification of concerns on ISDS, to be followed by step 2 on consideration of whether reform is desirable and step 3 on the design of possible solutions) continued where they had been left at the end of the previous meeting of the Working Group and were substantively completed. More specifically, issues discussed related to the finality of ISDS awards and review mechanisms and to questions surrounding arbitrators, including their appointment and ethical requirements and various concerns derived from the lack of guarantees of independence and impartiality. Aspects connected to third-party funding were also discussed.