



EUROPEAN COMMISSION

Directorate-General for Trade

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

Brussels, 06 December 2018

F.2/ [Art.4.1(b)]
 (2019)1317091

MEETING REPORT

Subject: Informal technical meeting with Member States' experts on the preparation for the UNCITRAL Working Group III session in April 2019 in New York, 06 December 2018, Brussels

SUMMARY

On 6 December 2018, COM (DG TRADE F.2) organised an informal technical meeting with Member States' investment experts on the preparation for the UNCITRAL Working Group III session in April 2019 in New York.

The meeting was structured in five sessions:

- (i) UNCITRAL Working Group III strategy;
- (ii) Discussion on the process paper: "Submission to UNCITRAL Working Group III: Work plan";
- (iii) Discussion on the concept paper: "Submission to UNCITRAL Working Group III: Establishing a standing mechanism for the settlement of international investment disputes";
- (iv) Technical assistance in the UNCITRAL process; and
- (v) The establishment of an Advisory Centre on International Investment Law.

REPORT

I. Session on the UNCITRAL Working Group III strategy

COM [Art.4.1(b)] explained what could be the probable agenda of the next Working Group III (WG) meeting in April 2019 in New York: (i) continuation of discussions of other concerns, including third-party funding; (ii) discussion of the work plan of the next WG sessions under step three of the WG's mandate; (iii) discussion of the reform ideas presented by delegations.

The EU intends to submit two papers to UNCITRAL in view of the meeting of the Working Group in April 2019: (1) a concept paper "Establishing a standing mechanism for the

settlement of international investment disputes", which outlines the EU's ideas on what form the institutional reform of ISDS should take; and (2) a paper on the "Possible work plan for Working Group III", which addresses process questions that will have to be solved when the Working Group designs and organises its work ahead.

[Art.4.1(a)]

COM then explained that several possibilities exist with respect to the organisation of the work of the WG:

- 1) to dedicate one week of the three-week session of the UNCITRAL Commission in July to the work of the WG. In this way, there would be three meetings of the WG per year, i.e. in April, July and October;
- 2) to establish other Working Groups that could work in parallel of WG III on ISDS reform;
- 3) establish sub-groups within the existing WG.

While option 1 above has already been budgeted, options 2 and 3 would require a decision on the budget, which has to be adopted already at the April 2019 session so that it can be approved by the UNCITRAL Commission in July 2019 and then by the Fifth Committee (which sets the budget for the next calendar year) at the end of 2019. In addition, if options 2 or 3 were chosen, appropriate ways should be found to ensure that all delegations are able to effectively participate in all meetings.

COM also informed MS that the next intersessional meeting will be held in the Dominican Republic on 13-14 February next year. However, no decisions or binding declarations will be taken there. [Art.4.1(a)]

II. Session on the work plan paper

COM presented the first paper on the suggested four-step process of the WG and explained the steps in detail.

[Art.4.1(a)]

III. Session on the concept paper

COM presented the second paper on the suggested reform under step 3 of the WG's mandate, i.e. the possible establishment of a standing mechanism for the settlement of international investment disputes.

[Art.4.1(a)]

IV. Technical assistance in the UNCITRAL process

[Art.4.1(a)]

[Art.4.1(a)]

V. Advisory Centre on International Investment Law

[Art.4.1(a)]

[Art.4.1(b)]

Encl.: 1. Agenda of the meeting
 2. Attendance list signed by Member States

C.c.: [Art.4.1(b)]