

**UNCITRAL Working Group III on ISDS Reform  
Webinar on the Role of Mediation in ISDS  
(18 June 2020)**

**Opening Remarks by Ms. Teresa Cheng, GBS, SC, JP  
Secretary for Justice  
Hong Kong Special Administrative Region  
of the People's Republic of China**

It's my great pleasure to be here, speaking to a group of ISDS experts and panelists as well as those who are watching through the webinar. To follow on from what Anna (Secretary, UNCITRAL) has said, I am here to give you some ideas of what we are thinking about in respect of the intersessional meeting for Working Group III.

With the support of the Central People's Government of the People's Republic of China, it is our great honor to host the intersessional meeting on the 9<sup>th</sup> and 10<sup>th</sup> of November, here in the Hong Kong Special Administrative Region. And this is the first time for a working group of UNCITRAL to have a meeting in Hong Kong. I certainly think that it's a very exciting opportunity for us.

As such, notwithstanding that we had to postpone it, we are very pleased that we're able to fix the dates now. In light of the uncertainties surrounding COVID-19, we are now exploring to adopt a hybrid mode for this intersessional meeting, that is to provide for both physical attendance as well as online participation. Again, it is probably the first time for such a hybrid mode to be adopted for an intersessional meeting. I hope that this is going to work and we'll work out the details later together with the UNCITRAL Secretariat, and further information will be circulated to all of you in due course.

ISDS reform, this very subject that Working Group III is looking at, is not only important internationally, but also is very close to the

heart of Hong Kong. Hong Kong is a global investment hub and a springboard for inbound and outbound investment into and from Mainland China. Under “one country, two systems”, Hong Kong, as authorized under the Basic Law, has entered into 22 Investment Promotion and Protection Agreements with 30 foreign economies so far and our network of international investment agreements will certainly continue to grow and expand. And of course, we will continue to participate in the work of Working Group III as members of the Chinese delegation.

Investment mediation will be the theme for the intersessional meeting. States and observer delegations for Working Group III have shown much interest in this great subject and its potential as an effective, efficient and flexible dispute resolution mechanism for ISDS. I think this subject should be carefully studied and developed. Mediation, though not a panacea, can complement structural reform options such as the ISDS appellate mechanism, operating together, if I may call it, as a “double helix” approach to pursue both structural and non-structural reform for ISDS.

Let me now share with you what we’re thinking about the intersessional meeting and how we’re going to go about it. On Day One, we suggest that a series of expert panels be conducted to look into the challenges to the use of mediation in ISDS and the use of mediation in the dispute resolution process, including whether and how we may develop a mediation protocol of some sort. Thirdly, we suggest also that the topic of hybrid models of arbitration and mediation be looked at, and that may well be something worth being explored in order for an efficient mechanism to be developed for ISDS disputes. And lastly, to look at the way forward for mediation as an ISDS reform option because, having got the ideas, we also need to put pen to paper or put the ideas into actions. The ideas on these proposed topics were indeed drawn from the Working Paper (WP. 190) prepared by the UNCITRAL Secretariat. So that’s for Day One.

On Day Two, we will take reference of what has been done in Working Group III and adopt the same general format, that is to have a closed door roundtable discussion for delegations of Working Group III. Hopefully, this will allow more in-depth exchange of views and suggestions on the possible mediation-related ISDS reform options.

We hope that the two days of discussion in the intersessional meeting will be crystallized into a report for reference and consideration by Working Group III. Of course, I look very much forward to seeing you all in Hong Kong. In the meantime, do stay healthy and do stay safe. We hope that the pandemic will be under control soon, and we will be in a “new normal”. Thank you very much.