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Agenda item 77

Report of the United Nations Commission on International Trade Law on the work of its fifty-sixth session

Resolution adopted by the General Assembly on 7 December 2023

[*on the report of the Sixth Committee (A/78/433, para. 13)*]

78/105. Code of Conduct for Arbitrators in International Investment Dispute Resolution and Code of Conduct for Judges in International Investment Dispute Resolution with respective commentary of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Noting that the Commission, at its fiftieth session, in 2017, entrusted its Working Group III (Investor-State Dispute Settlement Reform) with a broad mandate to work on the possible reform of investor-State dispute settlement and to develop relevant solutions,

Believing that it would be desirable to develop a set of ethical standards for adjudicators responsible for resolving international investment disputes in the light of the concerns identified about the perceived or apparent lack of independence and impartiality of some adjudicators, which often gave rise to criticism about the legitimacy of the investor-State dispute settlement system,

Convinced that establishing and promulgating clear obligations on adjudicators with regard to, among other things, independence and impartiality, limitation on multiple roles, ex parte communication, confidentiality and disclosure, would be an appropriate response to the identified concerns,



Also convinced that the development of uniform standards that would apply to arbitrators involved in the resolution of international investment disputes would be highly desirable,

Mindful that the Working Group is continuing to consider whether to recommend a number of investor-State dispute settlement reform elements to the Commission, including the possible establishment of a standing mechanism to resolve international investment disputes and that a code of conduct for members of such a standing mechanism (referred to as “judges”) could form part of the rules governing that mechanism,

Mindful also that the Working Group is considering the development of a multilateral instrument to implement the investor-State dispute settlement reform elements, which could provide additional means to apply the Codes of Conduct,

Noting that the Commission adopted the Code of Conduct for Arbitrators in International Investment Dispute Resolution and accompanying commentary at its fifty-sixth session, and adopted, in principle, the Code of Conduct for Judges in International Investment Dispute Resolution and accompanying commentary at the same session, both after due deliberations,

Noting also that the preparation of the Code of Conduct for Arbitrators and the Code of Conduct for Judges, as well as their accompanying commentary, benefited from consultations with Governments and interested intergovernmental and non-governmental organizations, and joint work of the secretariats of the International Centre for Settlement of Investment Disputes and the Commission,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for having formulated and adopted the Code of Conduct for Arbitrators in International Investment Dispute Resolution, the text of which is contained in annex III to the report of the Commission on the work of its fifty-sixth session,¹ and for having formulated and adopted, in principle, the Code of Conduct for Judges in International Investment Dispute Resolution, the text of which is contained in annex IV to the same report;²

2. *Recommends* the use of the Code of Conduct for Arbitrators by arbitrators, former arbitrators, candidates and disputing parties, as well as administering institutions, with regard to international investment disputes;

3. *Also recommends* the use of the Code of Conduct for Judges by standing mechanisms, where relevant;

4. *Further recommends* that Governments and other relevant stakeholders involved in the negotiation of international investment instruments and the enactment of legislation governing foreign investments make reference to the Code of Conduct for Arbitrators and the Code of Conduct for Judges, as appropriate;

5. *Requests* the Secretary-General to make all efforts to ensure that the Code of Conduct for Arbitrators and the Code of Conduct for Judges become generally known and available by disseminating them broadly to Governments and other interested bodies.

*45th plenary meeting
7 December 2023*

¹ Official Records of the General Assembly, Seventy-eighth session, Supplement No. 17 ([A/78/17](#)), annex III.

² Ibid., annex IV.