

More than 300 civil society organizations from 73 countries urge fundamental reform at UNCITRAL's Investor-State Dispute Settlement discussions

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Dear UNCITRAL Member States:

As representatives of civil society organizations across the globe, we reiterate our unequivocal opposition to the investor-state dispute settlement (ISDS) regime and the far-reaching rights for foreign investors enshrined in trade and investment treaties. ISDS and the investment treaty regime empower one class of interests – multinational corporations and investors – to sue governments outside of domestic court systems for unlimited amounts of compensation, including for the loss of expected future profits. A vast array of domestic laws, court rulings, regulations, and other government actions are subject to such attack, including non-discriminatory policies enacted in order to promote public welfare.

In recent years, this once-obscure feature of the international trade and investment regime has drawn increasing criticism: A growing chorus of government officials from across the political spectrum, small businesses, academics, jurists, civil society organizations and trade unions around the world have publicly proclaimed opposition to ISDS and urged governments to exit from the regime. As the number of ISDS cases filed each year has exploded, and corporations have won billions in attacks on a stunning array of policies that promote the general welfare, some governments have begun to terminate treaties that include ISDS and reject new trade and investment agreements that grant foreign investors excessive rights and access to ISDS.

In the context of this deserved global backlash against ISDS, the United Nations Commission on International Trade Law (UNCITRAL) – a UN body that has historically dealt with international commercial issues and is heavily dominated by the arbitration industry – launched Working Group III to “identify and consider concerns regarding ISDS; consider whether reform was desirable in light of any identified concerns; and, if the Working Group were to conclude that reform was desirable, develop any relevant solutions to be recommended to the Commission.” We commend the UNCITRAL member governments for recognizing that the current ISDS regime is politically and economically untenable.

After two meetings of the UNCITRAL Working Group III process, however, it has become clear that the scope of the discussion falls far short of addressing the fundamental flaws of an international investment regime that empowers one already-powerful class of society – foreign investors – to challenge public interest laws outside domestic courts. While we agree with many of the criticisms raised by governments in the UNCITRAL discussions related to the existing ISDS system's procedural flaws – including the high costs to governments and lack of transparency of the proceedings, the lack of coherence of awards, the inability to review the merits of even manifestly

flawed awards, the highly problematic appointment process, the lack of ethical requirements of arbitrators, and the perverse effects of third-party funding of arbitration – these represent only a small subset of the many flaws and dangers of ISDS and the investment treaty regime.

Unless this regime is considered in its entirety, including whether it achieves its purported aims, and unless the far-reaching substantive corporate rights in the underlying treaties are eliminated, the UNCITRAL Working Group III process will not result in any meaningful change.

We specifically reject attempts by the European Union to push a “multilateral investment court” project as a “solution” in the UNCITRAL Working Group III process. This EU proposal would not only fail to address most of the fundamental flaws of ISDS and the current investment treaty regime, but seems designed to keep many of ISDS’s most damaging features (and flaws) intact. The EU’s proposed procedural changes would not limit the extraordinary substantive rights granted solely to foreign investors that extend beyond relevant domestic laws. And, most fundamentally, the EU proposal would continue to allow foreign investors to challenge non-discriminatory policies, including those that safeguard health, preserve the environment, and promote labour standards, outside countries’ domestic courts. Such a “multilateral investment court” would effectively lock in the investment treaty regime at a time when governments are wisely considering withdrawing from it altogether.

Instead of focusing on procedural tweaks on the margins of the ISDS system, governments in UNCITRAL should put their efforts into discussing on how to move away from the current investment treaty system altogether. Thus, a more constructive focus for UNCITRAL would be to concentrate on the structural problems of the investment treaty regime and to facilitate a discussion on termination or wholesale replacement of existing agreements without countries being bound to the extended “survival” clauses.

We call on our governments to refrain from signing any new trade and investment pacts that include these extraordinary rights for foreign investors, to terminate existing ISDS-enforced treaties, and to use the UNCITRAL process to address the fundamental problems of the current system. This means that governments must reject the EU’s “multilateral investment court” proposal, establishment of an appellate mechanism, or any other attempts to institutionalise or further entrench the investment arbitration regime.

Sincerely,

Collective

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P.S.

Bilaterals

<http://bilaterals.org/?more-than-300-civil-society>

Global Organizations:

1. Public Services International
2. International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)
3. Friends of the Earth International
4. Greenpeace International
5. International Transport Workers' Federation
6. ActionAid
7. Association for Women's Rights in Development (AWID)
8. SumOfUs
9. Transnational Institute (TNI)
10. Society for International Development (SID)
11. The Grail International Network for Global Justice Overcoming Poverty
12. International Accountability Project
13. CIDSE
14. GRAIN
15. Africa Europe Faith & Justice Network
16. People's Health Movement
17. bilaterals.org
18. Global Initiative for Economic, Social and Cultural Rights
19. Compassion in World Farming
20. Health GAP (Global Access Project)

Regional Organizations:

21. Arab NGO Network for Development (Arab Region)
22. Focus on the Global (South Asia)
23. Building and Wood-Workers' Internat'l Asia-Pacific Regional Office (Asia-Pacific)
24. Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI) Uganda (East Africa)
25. ClientEarth (Europe)
26. Corporate Europe Observatory (Europe)
27. Eurogroup for Animals (Europe)
28. European Federation of Public Service Unions (EPSU) (Europe)
29. Friends of the Earth Europe (Europe)
30. Global Social Justice (Europe)
31. Transport & Environment (Europe)
32. We Move Europe (WeMove.EU) (Europe)
33. Women In Development Europe+ (WIDE+) (Europe)
34. Seattle to Brussels Network (Europe)
35. Compassion in World Farming (Europe)
36. ATALC- Amigos de la Tierra América Latina y Caribe (Latin America and Caribbean)
37. ALTSEAN-Burma (Southeast Asia)
38. Asociación Americana de Juristas (AAJ) (The Americas)

Country and Local Organizations:

Argentina:

39. Acción por la Biodiversidad
40. Amigos de la Tierra Argentina
41. Asamblea Argentina Mejor sin TLC
42. ATTAC Argentina
43. CANPo (Corriente Agraria Nacional y Popular)

44. Confederación de Trabajadores Municipales (CTM)
45. CTA Autónoma Capital Regional Centro
46. Diálogo 2000
47. ECOS de Saladillo
48. Foro Ciudadano de Participación por la Justicia y los Derechos Humanos
49. Observatorio de la Riqueza Padre Arrospe

Armenia

50. Отраслевой Республиканский Союз профессиональных организаций работников здравоохранения Армении

Australia

51. Australian Catholic Social Justice Council
52. Australian Council of Trade Unions
53. Australian Institute of Ecological Agriculture
54. Australian Services Union
55. AFTINET (Australian Fair Trade and Investment Network)
56. Community and Public Sector Union State Public Services Federation
57. Conservation Council of South
58. Environment East Gippsland Inc
59. Friends of the Earth
60. Gene Ethics
61. GM Free Margaret River
62. Householders' Options to Protect the Environment (HOPE) Inc.
63. Jubilee Australia Research Centre
64. MADGE Australia
65. Margaret River Regional Environment Centre
66. National Toxics Network
67. Organic Agriculture Association
68. Pesticide Action Group of Western Australia
69. Soil & Health Inc NZ
70. Sustainable Agriculture & Communities Alliance

Austria

71. #aufstehn
72. Attac Austria
73. Evangelischer Arbeitskreis für Weltmission Salzburg (EAWM Salzburg)
74. Grüne Bildungswerkstatt NÖ
75. Informationsgruppe Lateinamerika (IGLA)
76. Künstlerhaus, Association of Austrian Artists
77. NeSoVe / Network Social Responsibility
78. ÖBV-Via Campesina Austria
79. Südwind
80. transform!at
81. yunion _ Die Daseinsgewerkschaft
82. Plattform Anders Handeln

Bangladesh

83. BPUBJSKU

Belgium

84. Alliance nationale des Mutualités chrétiennes

- 85. CGSP/ ALR
- 86. CGSP/Parastataux
- 87. CNCD-11.11.11
- 88. Commission Justice et Paix
- 89. Entraide et Fraternité

Bolivia

- 90. The Democracy Center

Bosnia and Herzegovina

- 91. Centar za životnu sredinu/ Friends of the Earth Bosnia and Herzegovina

Brazil

- 92. Central Única dos Trabalhadores - Amapá
- 93. CONDSEF/FENADSEF
- 94. Confederacion Nacional de Los Trabajadores en la Seguridad Social de La Central única de los Trabajadores
- 95. Contracs-CUT
- 96. Federação dos Sindicatos dos Servidores Públicos no Estado de São (FESSP-ESP)
- 97. Federação dos Trabalhadores Municipais de Santa Catarina
- 98. Federação dos Trabs da Adm e do Serviço Publico Municipal no Estado de São Paulo
- 99. Instituto EQUIT
- 100. Núcleo Amigos da Terra Brasil
- 101. REBRIP - Brazilian Network for People's Integration
- 102. Sindicato dos Enfermeiros do Estado de São Paulo
- 103. SINDSAÚDE/SP
- 104. Sindsep-SP - Sindicato dos Trabalhadores na Administração Pública e Autarquias do Município de Sao Paulo
- 105. SINPSI-Sindicato dos Psicólogos de São Paulo

Bulgaria

- 106. FEDERATION OF TRADE UNIONS _ HEALTH SERVICES _ CITUB
- 107. Za Zemiata, Friends of the Earth Bulgaria

Burundi

- 108. EBENEZER

Cambodia

- 109. Social Action for Community and Development

Cameroon

- 110. Fédération des Syndicats des Employés de la Santé, Pharmacies et Assimilés du Cameroun (FSESPAC)

Canada

- 111. Association québécoise pour la taxation des transactions financières et pour l'action citoyenne (ATTAC-Québec)
- 112. Canadian HIV/AIDS Legal Network
- 113. Canadian Union of Public Employees (CUPE)
- 114. Centrale des syndicats démocratiques (CSD)
- 115. Centrale des syndicats du Québec (CSQ)
- 116. Common Frontiers

- 117. Council of Canadians
- 118. Council of Canadians Northumberland Chapter trade group
- 119. Felician Sisters
- 120. Inter Pares
- 121. MiningWatch Canada
- 122. National Union of Public and General Employees (NUPGE)
- 123. OpenMedia
- 124. Public Service Alliance of Canada
- 125. Réseau québécois sur l'intégration continentale

Chile

- 126. Centro Ecuménico Diego de Medellín
- 127. Comunidad Ecuménica Martin Luther King
- 128. ONG WE KIMUN
- 129. Plataforma Chile Mejor sin TLC

Colombia

- 130. CENSAT Colombia

Cyprus

- 131. Friends of the Earth Cyprus

Czech Republic

- 132. NaZemi

Democratic Republic of the Congo

- 133. Action Paysanne Contre la Faim
- 134. Conseil Régional des Organisations Non Gouvernementales de Développement

Denmark

- 135. Colombia Solidaritet
- 136. KULU - Women and Development (KULU)
- 137. NOAH Friends of the Earth Denmark
- 138. Transform!Danmark

Dominican Republic

- 139. APROGLOBO
- 140. Sindicato Nacional de Trabajadores de Enfermería, SINATRAE

Egypt

- 141. Egyptian Association for Community Participation Enhancement

El Salvador

- 142. CESTA Amigos de la Tierra El Salvador

Finland

- 143. New Wind Association

France

- 144. Amis de la Terre
- 145. CCFD-Terre Solidaire
- 146. Institut Veblen
- 147. Sherpa

Georgia

148. Public Service, Municipal and Bank Workers Trade Union

Germany

149. BUND (Friends of the Earth Germany)

150. Forschungs- und Dokumentationszentrum Chile-Lateinamerika e.V.

151. Mehr Demokratie e.V.

152. Netzwerk Gerechter Welthandel

153. PowerShift e.V.

154. Stiftung Asienhaus

155. ver.di

156. WEED - World Economy, Ecology & Development

Ghana

157. Ghana Registered Nurses and Midwives Association

Greece

158. Φίλοι της Φύσης / Naturefriends

Haiti

159. Internet Society Haiti Chapter

Honduras

160. Foro Dakar Honduras

Hungary

161. Diverziti Association

162. Fenntarthatóság Felé Egyesület / Towards Sustainability Association

163. Magyar Természetvédők Szövetsége / Friends of the Earth Hungary

164. Védegylet Egyesület

India

165. Initiative for Health & Equity in Society

166. IT for Change

167. LOCOST

168. Madhyam

169. Rajasthan Vidhyut Prasaran Mazdoor Congres (INTUC)

170. Society for Rural Education and Development

Indonesia

171. Indonesia for Global Justice

172. WALHI-Friends of the Earth Indonesia

Ireland

173. Action from Ireland (Afri)

174. Connect trade union

175. Latin America Solidarity Centre (LASC)

176. People's Movement

177. Social Justice Ireland

178. Stop CETA Alliance Ireland

179. zero waste alliance ireland

180. Irish Cattle and Sheep Farmers Association

Italy

181. Fairwatch Italy

Japan

182. All-Japan farmers' association

183. Food Policy Center Vision21

184. Forum for Peace, Human Rights and Environment

185. Mamademo

186. National Alliance of CSO's, Trade Unions, Farmer's Unions and Cooperatives for Joint Action Opposing to EPAs Modeled after TPP

187. Pacific Asia Resource Center (PARC)

188. People's Action against TPP

Kenya

189. Jamaa Resource Initiatives

190. Kenya Small Farmers Forum (KESFF)

191. Natural Resources Alliance of Kenya

192. The Inter-Religious Council Of Kenya (IRCK)

193. The Kenya National Union of Nurses

194. Union of Kenya Civil Servants

Lesotho

195. Policy Analysis and Research Institute of Lesotho (PARIL)

196. Rural women's assembly

Liberia

197. National Health Workers' Union of Liberia (NAHWUL)

Macedonia

198. Trade union of defence and security - SOB

Malaysia

199. Consumers' Association of Penang

200. Sahabat Alam Malaysia (Friends of the Earth Malaysia)

Mali

201. Federation des syndicats du secteur publis du Mali

Mauritania

202. Réseau Mauritanien pour l'Action Sociale RMAS

Mauritius

203. Rodrigues Government Employees Association

Mexico

204. Asamblea Nacional de Afectados Ambientales (ANAA)

205. Central de Organizaciones Campesinas y Populares

206. Centro de Derechos Humanos "Fray Francisco de Vitoria O.P.", A.C.

207. Centro de Estudios para el Cambio en el Campo Mexicano

208. Centro de Promoción y Educación Profesional Vasco de Quiroga

209. Otros Mundos-Amigos de la Tierra Mexico

210. Proyecto sobre Organización, Desarrollo, Educación e Investigación (PODER)

211. Red Mexicana de Acción frente al Libre Comercio (RMALC)

Mongolia

212. Centre for Human Rights and Development

New Zealand

213. Environmental and Human Health Aoteroaoa

214. Fancrest Estate

215. Gaia Trees

216. GE Free NZ Tai Tokerau

217. Hauraki Flooring Ltd.

218. It's Our Future

219. Murphy Pittman Enterprises

220. New Plymouth TPPA Action Group

221. New Zealand Public Service

223. Solutions Consultancy Ltd

224. The Awareness Party

225. TPP Free Wellington

226. NZ Council of Trade Unions Te Kauae Kaimahi

227. Campaign Against Foreign Control of Aotearoa (CAFCA)

Nigeria

228. Community Outreach for Development and Welfare Advocacy (CODWA)

Norway

229. Attac Norge

Panama

230. Federación Nacional de Asociaciones y Organizaciones de Empleados Públicos (FENASEP)

Palestine

231. Dr Haider Abdel Shafi center for Culture & Development

232. General Union of Health Service Workers (GUHSW)

233. Social & Economic Policies Monitor (Al Marsad)

234. Palestinian non governmental organizations network

Peru

235. Red Peruana por una Globalización con Equidad (RedGE)

Philippines

236. Alliance of Filipino Workers

237. Freedom from Debt Coalition

238. Indigenous Peoples International Centre for Policy Research and Education

239. Trade Justice Pilipinas

240. Alyansa Tigil Mina

241. Sentro ng mga Nagkakaisa at Progresibong Manggagawa

Poland

242. Institute of Global Responsibility

Portugal

243. TROCA-Plataforma por um Comércio Internacional Justo

244. ZERO - Association for the Sustainability of the Earth System

Romania

245. Declic

246. MiningWatch

Senegal

247. Lumiere Synergie pour le Developpement

248. Syndicat Autonome des Travailleurs de la Sénégalaise des Eaux

249. Syndicat National des Personnels Civils des Armées et Services de Sécurité Publics Privés et Assimilés (SYNPAS)

Serbia

250. Trade Union of Health and Social Care Workers NEZAVISNOST

South Africa

251. NPSWU

252. South African Municipal Workers' Union

South Korea

253. Knowledge Commune

254. Korean Pharmacists for Democratic Society

255. MINBYUN-Lawyers for a Democratic Society International Trade Committee

Spain

256. Alternativa3

257. Asociación Dignitat i Solidaritat - ADIS

258. ATTAC ESPAÑA

259. CCOO de Construcción y Servicios

260. CEDSALA

261. Confederación Intersindical

262. Coordinadora Ecologista de Asturias

263. Coordinadora Estatal de Comercio Justo

264. Debt Observatory in Globalisation

265. ECOAR))) GLOBAL

266. Ecologistas en Acción

267. ELA (Euskal Sindikatua)

268. ENTREPUEBLOS/ENTREPOBLES/ENTREPOBOS/HERRIARTE

269. Eticambio

270. Federación de Sanidad y Sectores Sociosanitarios (FSS-CCOO)

271. FeSP-UGT

272. Herver Trading SL

273. Ingeniería Sin Fronteras / Engineering Without Borders

274. Intersindical Valenciana

275. Izquierda Unida

276. La Tenda De Tot El Món

277. Mujeres de Negro contra la guerra

278. OMAL - Paz con Dignidad

279. Ong AFRICANDO

280. Pica Pica HackLab

281. Plataforma "Asturias No a los Tratados de Libre Comercio"

282. Plataforma Auditoria Ciudadana de la Deuda _Sevilla

283. Plataforma Cantabria por lo Público y Contra los Recortes

Sudan

284. Gender Studies Centre

Sweden

285. Friends of the Earth Sweden / Jordens Vänner

Switzerland

286. Association for Proper Internet Governance

Tanzania

287. Mazingira Network - Tanzania (MANET)

The Netherlands

288. Both ENDS

289. FNV

290. Milieudefensie

291. Ondernemers van Nu

292. Platform Aarde Boer Consument

293. Platform Duurzame en Solidaire Economie

294. SOMO

295. Women's International League for Peace and Freedom Dutch section

Tunisia

296. Forum Tunisien pour les Droits Economiques et Sociaux (FTDES)

Uganda

297. Buliisa Initiative for Rural Development Organisation (BIRUDO)

298. Community resources devt initiative kibaale

299. The Uganda Association of Women Lawyers, FIDA Uganda

300. Action Aid Uganda

United Kingdom

301. Fresh Eyes - People to People Travel cic

302. Friends of the Earth EWN

303. Global Justice Now

304. GMB Trade Union

305. Traidcraft Exchange

306. UNISON

307. Unite the Union

308. War on Want

United States of America

309. Action on Smoking and Health

310. AFL-CIO

311. Agricultural Missions Inc

312. Alliance for Global Justice

313. Amazon Watch

314. Center for Constitutional Rights

315. Center for International Environmental Law

316. Citizens Trade Campaign

317. Committee in Solidarity with the People of El Salvador (CISPES)

318. Consumer Federation of America

- 319. Earthworks
- 320. Franciscan Action Network
- 321. Institute for Agriculture and Trade Policy
- 322. Institute for Policy Studies, Global Economy Project
- 323. International Campaign for the Rohingya
- 324. International Center for Technology Assessment
- 325. International Corporate Accountability Roundtable
- 326. Knowledge Ecology International
- 327. Maryknoll Office for Global Concerns
- 328. People Demanding Action
- 329. Public Citizen
- 330. Sierra Club
- 331. The Jus Semper Global Alliance

Uruguay

- 332. REDES-Amigos de la Tierra Uruguay

Vanuatu

- 333. Vanuatu National Workers Union