

## Global Civil Society Sign-on Letter on UNCITRAL's Investor-State Dispute Settlement Reform Discussions

26 June 2018

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,

Signatories as of 26 June 2018:

**Global Organizations:**

1. Public Services International

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2. International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

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3. Friends of the Earth International

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4. Greenpeace International

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5. ActionAid

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6. Association for Women's Rights in Development (AWID)

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7. SumOfUs

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8. Transnational Institute (TNI)
9. Society for International Development (SID)
10. The Grail International Network for Global Justice Overcoming Poverty
11. International Accountability Project
12. CIDSE
13. GRAIN
14. Bilaterals.org
15. Health GAP (Global Access Project)

**Regional Organizations:**

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|---|-----------------------------|
| 16. Focus on the Global South   | Asia                        |
| 17. Building and Wood-Workers' Internat'l Asia-Pacific Regional Office                        | Asia-Pacific                |
| 18. Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI) Uganda | East Africa                 |
| 19. ClientEarth   | Europe                      |
| 20. Corporate Europe Observatory  | Europe                      |
| 21. Eurogroup for Animals   | Europe                      |
| 22. European Federation of Public Service Unions (EPSU)                                       | Europe                      |
| 23. Friends of the Earth Europe   | Europe                      |
| 24. Global Social Justice   | Europe                      |
| 25. Transport & Environment   | Europe                      |
| 26. We Move Europe (WeMove.EU)  | Europe                      |
| 27. Women In Development Europe+ (WIDE+)  | Europe                      |
| 28. Seattle to Brussels Network   | Europe                      |
| 29. Compassion in World Farming   | Europe / International      |
| 30. ATALC- Amigos de la Tierra América Latina y Caribe  | Latin America and Caribbean |
| 31. ALTSEAN-Burma   | Southeast Asia              |
| 32. Asociación Americana de Juristas (AAJ)  | The Americas                |

**Country and Local Organizations:**

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| 33. Antigua and Barbuda Public Service Association                         | Antigua and Barbuda |
| 34. Amigos de la Tierra Argentina  | Argentina           |
| 35. Asamblea Argentina Mejor sin TLC                                       | Argentina           |
| 36. ATTAC Argentina  | Argentina           |
| 37. CANPo (Corriente Agraria Nacional y Popular)                           | Argentina           |
| 38. Confederación de Trabajadores Municipales (CTM)                        | Argentina           |
| 39. CTA Autónoma Capital Regional Centro                                   | Argentina           |
| 40. Diálogo 2000   | Argentina           |
| 41. ECOS de Saladillo  | Argentina           |
| 42. Foro Ciudadano de Participación por la Justicia y los Derechos Humanos | Argentina           |
| 43. Observatorio de la Riqueza Padre Arrospe                               | Argentina           |

44.	Отраслевой Республиканский Союз профессиональных организаций работников здравоохранения Армении	Armenia
45.	AFTINET (Australian Fair Trade and Investment Network)	Australia
46.	Australian Catholic Social Justice Council	Australia
47.	Australian Council of Trade Unions	Australia
48.	Australian Services Union	Australia
49.	Community and Public Sector Union State Public Services Federation	Australia
50.	Friends of the Earth Australia	Australia
51.	Gene Ethics	Australia
52.	GM Free Margaret River	Australia
53.	Householders' Options to Protect the Environment (HOPE) Inc.	Australia
54.	Jubilee Australia Research Centre	Australia
55.	National Toxics Network	Australia
56.	Organic Agriculture Association	Australia
57.	Pesticide Action Group of Western Australia	Australia
58.	Attac Austria	Austria
59.	Informationsgruppe Lateinamerika (IGLA)	Austria
60.	NeSoVe / Network Social Responsibility	Austria
61.	ÖBV-Via Campesina Austria	Austria
62.	Plattform Anders Handeln	Austria
63.	Südwind	Austria
64.	younion _ Die Daseinsgewerkschaft	Austria
65.	Alliance nationale des Mutualités chrétiennes	Belgium
66.	CGSP/ ALR	Belgium
67.	CGSP/Parastataux	Belgium
68.	CNCD-11.11.11	Belgium
69.	Commission Justice et Paix	Belgium
70.	Entraide et Fraternité	Belgium
71.	The Democracy Center	Bolivia
72.	Centar za životnu sredinu/ Friends of the Earth Bosnia and Herzegovina	Bosnia and Herzegovina
73.	Confederacion Nacional de Los Trabajadores en la Seguridad Social de La Central única de los Trabajadores	Brazil
74.	Contracs-CUT	Brazil
75.	Federação dos Trabs da Adm e do Serviço Publico Municipal no Estado de São Paulo	Brazil
76.	Instituto EQUIT	Brazil
77.	Núcleo Amigos da Terra Brasil	Brazil
78.	Sindicato dos Enfermeiros do Estado de São Paulo	Brazil

79. Sindsep-SP - Sindicato dos Trabalhadores na Administração Pública e Autarquias do Município de Sao Paulo	Brazil
80. SINPSI-Sindicato dos Psicólogos de São Paulo	Brazil
81. VICTOR DANIEL DINIZ QUARESMA	Brazil
82. Federation of Trade Unions-Health Services (CITUB)	Bulgaria
83. Za Zemiata, Friends of the Earth Bulgaria	Bulgaria
84. EBENEZER	Burundi
85. Social Action for Community and Development	Cambodia
86. Fédération des Syndicats des Employés de la Santé, Pharmacies et Assimilés du Cameroun (FSESPAC)	Cameroon
87. Canadian HIV/AIDS Legal Network	Canada
88. Centrale des syndicats du Québec (CSQ)	Canada
89. Common Frontiers	Canada
90. Council of Canadians	Canada
91. Council of Canadians Northumberland Chapter trade group	Canada
92. Felician Sisters	Canada
93. Inter Pares	Canada
94. MiningWatch Canada	Canada
95. National Union of Public and General Employees (NUPGE)	Canada
96. OpenMedia	Canada
97. Public Service Alliance of Canada	Canada
98. Association québécoise pour la taxation des transactions financières et pour l'action citoyenne (ATTAC-Québec)	Canada (Québec)
99. Centrale des syndicats démocratiques (CSD)	Canada (Québec)
100. Centro Ecuánico Diego de Medellín	Chile
101. Comunidad Ecuánica Martin Luther King	Chile
102. ONG WE KIMUN	Chile
103. Plataforma Chile Mejor sin TLC	Chile
104. CENSAT	Colombia
105. Friends of Earth Cyprus	Cyprus
106. NaZemi	Czech Republic
107. Action Paysanne Contre la Faim	Democratic Republic of the Congo
108. Conseil Regional des Organisations non Gouvernementales de Developpement	Democratic Republic of the Congo
109. KULU - Women and Development (KULU)	Denmark
110. NOAH Friends of the Earth Denmark	Denmark
111. Transform!Danmark	Denmark
112. APROGLOBO	Dominican Republic
113. Sindicato Nacional de Trabajadores de Enfermería, SINATRAE	Dominican Republic

114. CESTA Amigos de la Tierra	El Salvador
115. New Wind Association	Finland
116. Amis de la Terre	France
117. Institut Veblen	France
118. Sherpa	France
119. BUND (Friends of the Earth Germany)	Germany
120. Forschungs- und Dokumentationszentrum Chile-Lateinamerika e.V.	Germany
121. PowerShift e.V.	Germany
122. Stiftung Asienhaus	Germany
123. ver.di	Germany
124. Ghana Registered Nurses and Midwives Association	Ghana
125. Internet Society Haiti Chapter	Haiti
126. Foro Dakar Honduras	Honduras
127. Diverziti Association	Hungary
128. Fenntarthatóság Felé Egyesület / Towards Sustainability Association	Hungary
129. Magyar Természetvédők Szövetsége / Friends of the Earth Hungary	Hungary
130. Védegylet Egyesület	Hungary
131. IT for Change	India
132. Madhyam	India
133. Rajasthan Vidhyut Prasaran Mazdoor Congres (INTUC)	India
134. Society for Rural Education and Development	India
135. Indonesia for Global Justice	Indonesia
136. WALHI-Friends of the Earth Indonesia	Indonesia
137. Action from Ireland (Afri)	Ireland
138. Connect trade union	Ireland
139. Irish cattle and sheep farmers Association	Ireland
140. Latin America Solidarity Centre (LASC)	Ireland
141. People's Movement	Ireland
142. Social Justice Ireland	Ireland
143. Stop CETA Alliance Ireland	Ireland
144. Zero Waste Alliance Ireland	Ireland
145. Fairwatch	Italy
146. All-Japan Farmers' Association	Japan
147. Food Policy Center Vision21	Japan
148. Forum for Peace,Human Rights and Environment	Japan
149. Mamademo	Japan

150. National Alliance of CSO's, Trade Unions, Farmer's Unions and Cooperatives for Joint Action Opposing to EPAs Modeled after TPP	Japan
151. Pacific Asia Resource Center (PARC)	Japan
152. People's Action against TPP	Japan
153. Natural Resources Alliance of Kenya	Kenya
154. The Inter-Religious Council Of Kenya (IRCK)	Kenya
155. The Kenya National Union of Nurses	Kenya
156. Union of Kenya Civil Servants	Kenya
157. Policy Analysis and Research Institute of Lesotho (PARIL)	Lesotho
158. Rural Women's Assembly	Lesotho
159. National Health Workers' Union of Liberia (NAHWUL)	Liberia
160. Trade union of defence and security - SOB	Macedonia
161. Consumers' Association of Penang	Malaysia
162. Sahabat Alam Malaysia (Friends of the Earth Malaysia)	Malaysia
163. Federation des syndicats du secteur publis du Mali	Mali
164. Rodrigues Government Employees Association	Mauritius
165. Asamblea Nacional de Afectados Ambientales (ANAA)	Mexico
166. Central de Organizaciones Campesinas y Populares	Mexico
167. Centro de Derechos Humanos "Fray Francisco de Vitoria O.P.", A.C.	Mexico
168. Centro de Estudios para el Cambio en el Campo Mexicano	Mexico
169. Centro de Estudios para el Cambio en el Campo Mexicano (Ceccam)	Mexico
170. Centro de Promoción y Educación Profesional Vasco de Quiroga	Mexico
171. Otros Mundos-Amigos de la Tierra Mexico	Mexico
172. Proyecto sobre Organización, Desarrollo, Educación e Investigación (PODER)	Mexico
173. Red Mexicana de Acción frente al Libre Comercio (RMALC)	Mexico
174. ALTSEAN-Burma	Myanmar
175. Environmental and Human Health Aoteroaoa	New Zealand
176. Fancrest Estate	New Zealand
177. Hauraki Flooring Ltd.	New Zealand
178. It's Our Future	New Zealand
179. New Zealand Public Service Association Te Pukenga Here Tikanga Mahi	New Zealand
180. NZ Council of Trade Unions Te Kauae Kaimahi	New Zealand
181. Social Credit	New Zealand
182. Campaign Against Foreign Control of Aotearoa (CAFCA)	New Zealand (Aotearoa)
183. Community Outreach for Development and Welfare Advocacy (CODWA)	Nigeria
184. Attac Norge	Norway
185. General Union of Health Service Workers	Palestine

186. Red Peruana por una Globalización con Equidad (RedGE)	Peru
187. Alliance of Filipino Workers	Philippines
188. Alyansa Tigil Mina	Philippines
189. Freedom from Debt Coalition	Philippines
190. Indigenous Peoples International Centre for Policy Research and Education	Philippines
191. Sentro ng mga Nagkakaisa at Progresibong Manggagawa	Philippines
192. Trade Justice Pilipinas	Philippines
193. Institute of Global Responsibility	Poland
194. Polish Institute for Human Rights and Business	Poland
195. TROCA- Plataforma por um Comércio Internacional Justo	Portugal
196. ZERO - Association for the Sustainability of the Earth System	Portugal
197. Vanatu National Workers Union	Republic of Vanuatu
198. Lumiere Synergie pour le Developpement	Senegal
199. Syndicat Autonome des Travailleurs de la Sénégalaise des Eaux	Senegal
200. Syndicat National des Personnels Civils des Armées et Services de Sécurité Publics Privés et Assimilés (SYNPAS)	Senegal
201. Trade Union of Health and Social Care Workers NEZAVISNOST	Serbia
202. NPSWU	South Africa
203. South African Municipal Workers' Union	South Africa
204. Knowledge Commune	South Korea
205. Korean Pharmacists for Democratic Society	South Korea
206. MINBYUN-Lawyers for a Democratic Society International Trade Committee	South Korea
207. ATTAC ESPAÑA	Spain
208. Comisiones Obreras - Federación de Construcción y Servicios	Spain
209. Confederación Intersindical	Spain
210. Debt Observatory in Globalisation	Spain
211. ECOAR))) GLOBAL	Spain
212. Ecologistas en Acción	Spain
213. ENTREPUEBLOS/ENTREPOBLES/ENTREPOBOS/HERRIARTE	Spain
214. FeSP-UGT	Spain
215. Ingeniería Sin Fronteras / Engineering Without Borders	Spain
216. Izquierda Unida	Spain
217. Mujeres de Negro contra la guerra	Spain (Andalucia)
218. Plataforma Auditoria Ciudadana de la Deuda _Sevilla	Spain (Andalucia)
219. Coordinadora Ecologista de Asturias	Spain (Asturias)
220. Pica Pica HackLab	Spain (Asturias)
221. Plataforma “Asturias No a los Tratados de Libre Comercio”	Spain (Asturias)



222. Plataforma Cantabria por lo Público y Contra los Recortes	Spain (Cantabria)
223. OMAL - Paz con Dignidad	Spain (Estado Español)
224. Ong AFRICANDO	Spain (Gran Canaria)
225. Asociación Dignitat i Solidaritat - ADIS	Spain (Majorca)
226. Intersindical Valenciana	Spain (País València)
227. Friends of the Earth Sweden / Jordens Vänner	Sweden
228. Association for Proper Internet Governance	Switzerland
229. Mazingira Network - Tanzania (MANET)	Tanzania
230. Both ENDS	The Netherlands
231. FNV	The Netherlands
232. Ondernemers van Nu	The Netherlands
233. Platform Duurzame en Solidaire Economie	The Netherlands
234. SOMO	The Netherlands
235. Women's International League for Peace and Freedom Dutch section	The Netherlands
236. Action Aid Uganda	Uganda
237. Buliisa Initiative for Rural Development Organisation (BIRUDO)	Uganda
238. Community resources devt initiative kibaale	Uganda
239. The Uganda Association of Women Lawyers, FIDA Uganda	Uganda
240. Fresh Eyes - People to People Travel cic	United Kingdom
241. Friends of the Earth EWNI	United Kingdom
242. Global Justice Now	United Kingdom
243. GMB Trade Union	United Kingdom
244. Traidcraft Exchange	United Kingdom
245. UNISON	United Kingdom
246. Unite the Union	United Kingdom
247. Action on Smoking and Health	United States of America
248. AFL-CIO	United States of America
249. Agricultural Missions, Inc	United States of America
250. Alliance for Global Justice	United States of America
251. Amazon Watch	United States of America
252. Center for Constitutional Rights	United States of America
253. Center for International Environmental Law	United States of America
254. Citizens Trade Campaign	United States of America
255. Committee in Solidarity with the People of El Salvador (CISPES)	United States of America
256. Consumer Federation of America	United States of America
257. Earthworks	United States of America
258. Franciscan Action Network	United States of America

259. Institute for Agriculture and Trade Policy	United States of America
260. Institute for Policy Studies, Global Economy Project	United States of America
261. International Campaign for the Rohingya	United States of America
262. International Center for Technology Assessment	United States of America
263. International Corporate Accountability Roundtable	United States of America
264. Knowledge Ecology International	United States of America
265. Maryknoll Office for Global Concerns	United States of America
266. People Demanding Action	United States of America
267. Public Citizen	United States of America
268. Sierra Club	United States of America
269. The Jus Semper Global Alliance	United States of America
270. REDES-Amigos de la Tierra Uruguay	Uruguay