**More Than 300 Civil Society Organizations From 73 Countries Urge Fundamental Reform at UNCITRAL’s Investor-State Dispute Settlement Discussions**

30 October 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,

**Global Organizations:**

|  |  |
| --- | --- |
|  | Public Services International |
|  | International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) |
|  | Friends of the Earth International |
|  | Greenpeace International |
|  | International Transport Workers’ Federation |
|  | ActionAid |
|  | Association for Women's Rights in Development (AWID) |
|  | SumOfUs |
|  | Transnational Institute (TNI) |
|  | Society for International Development (SID) |
|  | The Grail International Network for Global Justice Overcoming Poverty |
|  | International Accountability Project |
|  | CIDSE |
|  | GRAIN |
|  | Africa Europe Faith & Justice Network |
|  | People's Health Movement |
|  | [Bilaterals.org](http://bilaterals.org/) |
|  | Global Initiative for Economic, Social and Cultural Rights |
|  | Compassion in World Farming |
|  | Health GAP (Global Access Project) |

**Regional Organizations:**

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

**Country and Local Organizations:**

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| --- | --- | --- |
|  | Acción por la Biodiversidad | Argentina |
|  | Amigos de la Tierra Argentina | Argentina |
|  | Asamblea Argentina Mejor sin TLC | Argentina |
|  | ATTAC Argentina | Argentina |
|  | CANPo (Corriente Agraria Nacional y Popular) | Argentina |
|  | Confederación de Trabajadores Municipales (CTM) | Argentina |
|  | CTA Autónoma Capital Regional Centro | Argentina |
|  | Diálogo 2000 | Argentina |
|  | ECOS de Saladillo | Argentina |
|  | Foro Ciudadano de Participación por la Justicia y los Derechos Humanos | Argentina |
|  | Observatorio de la Riqueza Padre Arrospe | Argentina |
|  | Отраслевой Республиканский Союз профессиональных организаций работников здравоохранения Армении | Armenia |
|  | Australian Catholic Social Justice Council | Australia |
|  | Australian Council of Trade Unions | Australia |
|  | Australian Institute of Ecological Agriculture | Australia |
|  | Australian Services Union | Australia |
|  | AFTINET (Australian Fair Trade and Investment Network) | Australia |
|  | Community and Public Sector Union State Public Services Federation | Australia |
|  | Conservation Council of South Australia | Australia |
|  | Environment East Gippsland Inc | Australia |
|  | Friends of the Earth Australia | Australia |
|  | Gene Ethics | Australia |
|  | GM Free Margaret River | Australia |
|  | Householders' Options to Protect the Environment (HOPE) Inc. | Australia |
|  | Jubilee Australia Research Centre | Australia |
|  | MADGE Australia | Australia |
|  | Margaret River Regional Environment Centre | Australia |
|  | National Toxics Network | Australia |
|  | Organic Agriculture Association | Australia |
|  | Pesticide Action Group of Western Australia | Australia |
|  | Soil & Health Inc NZ | Australia |
|  | Sustainable Agriculture & Communities Alliance | Australia |
|  | #aufstehn | Austria |
|  | Attac Austria | Austria |
|  | Evangelischer Arbeitskreis für Weltmission Salzburg (EAWM Sazburg) | Austria |
|  | Grüne Bildungswerkstatt NÖ | Austria |
|  | Informationsgruppe Lateinamerika (IGLA) | Austria |
|  | Künstlerhaus, Assoziation of Austrian Artists | Austria |
|  | NeSoVe / Network Social Responsibility | Austria |
|  | ÖBV-Via Campesina Austria | Austria |
|  | Südwind | Austria |
|  | transform!at | Austria |
|  | younion \_ Die Daseinsgewerkschaft | Austria |
|  | Plattform Anders Handeln | Austria |
|  | BPUBJSKU | Bangladesh |
|  | Alliance nationale des Mutualités chrétiennes | Belgium |
|  | CGSP/ ALR | Belgium |
|  | CGSP/Parastataux | Belgium |
|  | CNCD-11.11.11 | Belgium |
|  | Commission Justice et Paix | Belgium |
|  | Entraide et Fraternité | Belgium |
|  | The Democracy Center | Bolivia |
|  | Centar za životnu sredinu/ Friends of the Earth Bosnia and Herzegovina | Bosnia and Herzegovina |
|  | Central Única dos Trabalhadores - Amapá | Brazil |
|  | CONDSEF/FENADSEF | Brazil |
|  | Confederacion Nacional de Los Trabajadores en la Seguridad Social de La Central ùnica de los Trabajadores | Brazil |
|  | Contracs-CUT | Brazil |
|  | Federação dos Sindicatos dos Servidores Públicos no Estado de São (FESSP-ESP) | Brazil |
|  | Federação dos Trabalhadores Municipais de Santa Catarina | Brazil |
|  | Federação dos Trabs da Adm e do Serviço Publico Municipal no Estado de São Paulo | Brazil |
|  | Instituto EQUIT | Brazil |
|  | Núcleo Amigos da Terra Brasil | Brazil |
|  | REBRIP - Brazilian Network for People's Integration | Brazil |
|  | Sindicato dos Enfermeiros do Estado de São Paulo | Brazil |
|  | SINDSAÚDE/SP | Brazil |
|  | Sindsep-SP - Sindicato dos Trabalhadores na Administração Pública e Autarquias do Municipio de Sao Paulo | Brazil |
|  | SINPSI-Sindicato dos Psicólogos de São Paulo | Brazil |
|  | FEDERATION OF TRADE UNIONS \_ HEALTH SERVICES \_ CITUB | Bulgaria |
|  | Za Zemiata, Friends of the Earth Bulgaria | Bulgaria |
|  | EBENEZER | Burundi |
|  | Social Action for Community and Development | Cambodia |
|  | Fédération des Syndicats des Employés de la Santé, Pharmacies et Assimilés du Cameroun (FSESPAC) | Cameroon |
|  | Association québécoise pour la taxation des transactions financières et pour l'action citoyenne (ATTAC-Québec) | Canada (Québec) |
|  | Canadian HIV/AIDS Legal Network | Canada |
|  | Canadian Union of Public Employees (CUPE) | Canada |
|  | Centrale des syndicats démocratiques (CSD) | Canada |
|  | Centrale des syndicats du Québec (CSQ) | Canada (Québec) |
|  | Common Frontiers | Canada |
|  | Council of Canadians | Canada |
|  | Council of Canadians Northumberland Chapter trade group | Canada |
|  | Felician Sisters | Canada |
|  | Inter Pares | Canada |
|  | MiningWatch Canada | Canada |
|  | National Union of Public and General Employees (NUPGE) | Canada |
|  | OpenMedia | Canada |
|  | Public Service Alliance of Canada | Canada |
|  | Réseau québécois sur l'intégration continentale | Canada (Québec) |
|  | Centro Ecuménico Diego de Medellín | Chile |
|  | Comunidad Ecuménica Martin Luther King | Chile |
|  | ONG WE KIMUN | Chile |
|  | Plataforma Chile Mejor sin TLC | Chile |
|  | CENSAT | Colombia |
|  | Friends of the Earth Cyprus | Cyprus |
|  | NaZemi | Czech Republic |
|  | Action Paysanne Contre la Faim | Democratic Republic of the Congo |
|  | Conseil Régional des Organisations Non Gouvernementales de Développement | Democratic Republic of the Congo |
|  | Colombia Solidaritet | Denmark |
|  | KULU - Women and Development (KULU) | Denmark |
|  | NOAH Friends of the Earth Denmark | Denmark |
|  | Transform!Danmark | Denmark |
|  | APROGLOBO | Dominican Republic |
|  | Sindicato Nacional de Trabajadores de Enfermería, SINATRAE | Dominican Republic |
|  | Egyptian Association for Community Participation Enhancement | Egypt |
|  | CESTA Amigos de la Tierra | El Salvador |
|  | New Wind Association | Finland |
|  | Amis de la Terre | France |
|  | CCFD-Terre Solidaire | France |
|  | Institut Veblen | France |
|  | Sherpa | France |
|  | Public Service, Municipal and Bank Workers Trade Union | Georgia |
|  | BUND (Friends of the Earth Germany) | Germany |
|  | Forschungs- und Dokumentationszentrum Chile-Lateinamerika e.V. | Germany |
|  | Mehr Demokratie e.V. | Germany |
|  | Netzwerk Gerechter Welthandel | Germany |
|  | PowerShift e.V. | Germany |
|  | Stiftung Asienhaus | Germany |
|  | [ver.di](http://ver.di/) | Germany |
|  | WEED - World Economy, Ecology & Development | Germany |
|  | Ghana Registered Nurses and Midwives Association | Ghana |
|  | Φίλοι της Φυσης / Naturefriends | Greece |
|  | Internet Society Haiti Chapter | Haiti |
|  | Foro Dakar Honduras | Honduras |
|  | Diverziti Association | Hungary |
|  | Fenntarthatóság Felé Egyesület / Towards Sustainability Association | Hungary |
|  | Magyar Természetvédők Szövetsége / Friends of the Earth Hungary | Hungary |
|  | Védegylet Egyesület | Hungary |
|  | Initiative for Health & Equity in Society | India |
|  | IT for Change | India |
|  | LOCOST | India |
|  | Madhyam | India |
|  | Rajasthan Vidhyut Prasaran Mazdoor Congres (INTUC) | India |
|  | Society for Rural Education and Development | India |
|  | Indonesia for Global Justice | Indonesia |
|  | WALHI-Friends of the Earth Indonesia | Indonesia |
|  | Action from Ireland (Afri) | Ireland |
|  | Connect trade union | Ireland |
|  | Latin America Solidarity Centre (LASC) | Ireland |
|  | People's Movement | Ireland |
|  | Social Justice Ireland | Ireland |
|  | Stop CETA Alliance Ireland | Ireland |
|  | zero waste alliance ireland | Ireland |
|  | Irish Cattle and Sheep Farmers Association | Ireland |
|  | Fairwatch | Italy |
|  | All-Japan farmers' association | Japan |
|  | Food Policy Center Vision21 | Japan |
|  | Forum for Peace,Human Rights and Environment | Japan |
|  | Mamademo | Japan |
|  | National Alliance of CSO's, Trade Unions, Farmer's Unions and Cooperatives for Joint Action Opposing to EPAs Modeled after TPP | Japan |
|  | Pacific Asia Resource Center (PARC) | Japan |
|  | People's Action against TPP | Japan |
|  | Jamaa Resource Initiatives | Kenya |
|  | Kenya Small Farmers Forum (KESFF) | Kenya |
|  | Natural Resources Alliance of Kenya | Kenya |
|  | The Inter-Religious Council Of Kenya (IRCK) | Kenya |
|  | The Kenya National Union of Nurses | Kenya |
|  | Union of Kenya Civil Servants | Kenya |
|  | Policy Analysis and Research Institute of Lesotho (PARIL) | Lesotho |
|  | Rural women's assembly | Lesotho |
|  | National Health Workers' Union of Liberia (NAHWUL) | Liberia |
|  | Trade union of defence and security - SOB | Macedonia |
|  | Consumers' Association of Penang | Malaysia |
|  | Sahabat Alam Malaysia (Friends of the Earth Malaysia) | Malaysia |
|  | Federation des syndicats du secteur publis du Mali | Mali |
|  | Reseau Mauritanien pour l'Action Sociale RMAS | Mauritania |
|  | Rodrigues Government Employees Association | Mauritius |
|  | Asamblea Nacional de Afectados Ambientales (ANAA) | Mexico |
|  | Central de Organizaciones Campesinas y Populares | Mexico |
|  | Centro de Derechos Humanos "Fray Francisco de Vitoria O.P.", A.C. | Mexico |
|  | Centro de Estudios para el Cambio en el Campo Mexicano | Mexico |
|  | Centro de Promoción y Educación Profesional Vasco de Quiroga | Mexico |
|  | Otros Mundos-Amigos de la Tierra Mexico | Mexico |
|  | Proyecto sobre Organización, Desarrollo, Educación e Investigación (PODER) | Mexico |
|  | Red Mexicana de Acción frente al Libre Comercio (RMALC) | Mexico |
|  | Centre for Human Rights and Development | Mongolia |
|  | Environmental and Human Health Aoteroaoa | New Zealand |
|  | Fancrest Estate | New Zealand |
|  | Gaia Trees | New Zealand |
|  | GE Free NZ Tai Tokerau | New Zealand |
|  | Hauraki Flooring Ltd. | New Zealand |
|  | It’s Our Future | New Zealand |
|  | Murphy Pittman Enterprises | New Zealand |
|  | New Plymouth TPPA Action Group | New Zealand |
|  | New Zealand Public Service Association Te Pukenga Here Tikanga Mahi | New Zealand |
|  | Social Credit | New Zealand |
|  | Solutions Consultancy Ltd | New Zealand |
|  | The Awareness Party | New Zealand |
|  | TPP Free Wellington | New Zealand |
|  | NZ Council of Trade Unions Te Kauae Kaimahi | New Zealand |
|  | Campaign Against Foreign Control of Aotearoa (CAFCA) | New Zealand (Aotearoa) |
|  | Community Outreach for Development and Welfare Advocacy (CODWA) | Nigeria |
|  | Attac Norge | Norway |
|  | Federación Nacional de Asociaciones y Organizaciones de Empleados Públicos (FENASEP) | Panama |
|  | Dr Haider Abdel Shafi center for Culture & Development | Palestine |
|  | General Union of Health Service Workers (GUHSW) | Palestine |
|  | Social & Economic Policies Monitor (Al Marsad) | Palestine |
|  | Palestinian non governmental organizations network | Palestine |
|  | Red Peruana por una Globalización con Equidad (RedGE) | Peru |
|  | Alliance of Filipino Workers | Philippines |
|  | Freedom from Debt Coalition | Philippines |
|  | Indigenous Peoples International Centre for Policy Research and Education | Philippines |
|  | Trade Justice Pilipinas | Philippines |
|  | Alyansa Tigil Mina | Philippines |
|  | Sentro ng mga Nagkakaisa at Progresibong Manggagawa | Philippines |
|  | Institute of Global Responsibility | Poland |
|  | TROCA- Plataforma por um Comércio Internacional Justo | Portugal |
|  | ZERO - Association for the Sustainability of the Earth System | Portugal |
|  | Declic | Romania |
|  | MiningWatch | Romania |
|  | Lumiere Synergie pour le Developpement | Senegal |
|  | Syndicat Autonome des Travailleurs de la Sénégalaise des Eaux | Senegal |
|  | Syndicat National des Personnels Civils des Armées et Services de Sécurité Publics Privés et Assimilés (SYNPAS) | Senegal |
|  | Trade Union of Health and Social Care Workers NEZAVISNOST | Serbia |
|  | NPSWU | South Africa |
|  | South African Municipal Workers' Union | South Africa |
|  | Knowledge Commune | South Korea |
|  | Korean Pharmacists for Democratic Society | South Korea |
|  | MINBYUN-Lawyers for a Democratic Society International Trade Committee | South Korea |
|  | Alternativa3 | Spain |
|  | Asociación Dignitat i Solidaritat - ADIS | Spain (Majorca) |
|  | ATTAC ESPAÑA | Spain |
|  | CCOO de Construcción y Servicios | Spain |
|  | CEDSALA | Spain (Pais Valencià) |
|  | Confederación Intersindical | Spain |
|  | Coordinadora Ecologista de Asturias | Spain (Asturias) |
|  | Coordinadora Estatal de Comercio Justo | Spain |
|  | Debt Observatory in Globalisation | Spain |
|  | ECOAR))) GLOBAL | Spain |
|  | Ecologistas en Acción | Spain |
|  | ELA (Euskal Sindikatua) | Spain (Basque Country) |
|  | ENTREPUEBLOS/ENTREPOBLES/ENTREPOBOS/HERRIARTE | Spain |
|  | Eticambio | Spain |
|  | Federación de Sanidad y Sectores Sociosanitarios (FSS-CCOO) | Spain |
|  | FeSP-UGT | Spain |
|  | Herver Trading SL | Spain |
|  | Ingeniería Sin Fronteras / Engineering Without Borders | Spain |
|  | Intersindical Valenciana | Spain (País València) |
|  | Izquierda Unida | Spain |
|  | La Tenda De Tot El Món | Spain |
|  | Mujeres de Negro contra la guerra | Spain (Andalucia) |
|  | OMAL - Paz con Dignidad | Spain (Estado Español) |
|  | Ong AFRICANDO | Spain (Gran Canaria) |
|  | Pica Pica HackLab | Spain (Asturias) |
|  | Plataforma “Asturias No a los Tratados de Libre Comercio” | Spain (Asturias) |
|  | Plataforma Auditoria Ciudadana de la Deuda \_Sevilla | Spain (Andalucia) |
|  | Plataforma Cantabria por lo Público y Contra los Recortes | Spain (Cantabria) |
|  | Gender Studies Centre | Sudan |
|  | Friends of the Earth Sweden / Jordens Vänner | Sweden |
|  | Association for Proper Internet Governance | Switzerland |
|  | Mazingira Network - Tanzania (MANET) | Tanzania |
|  | Both ENDS | The Netherlands |
|  | FNV | The Netherlands |
|  | Milieudefensie | The Netherlands |
|  | Ondernemers van Nu | The Netherlands |
|  | Platform Aarde Boer Consument | The Netherlands |
|  | Platform Duurzame en Solidaire Economie | The Netherlands |
|  | SOMO | The Netherlands |
|  | Women's International League for Peace and Freedom Dutch section | The Netherlands |
|  | Forum Tunisien pour les Droits Economiques et Sociaux (FTDES) | Tunisia |
|  | Buliisa Initiative for Rural Development Organisation (BIRUDO) | Uganda |
|  | Community resources devt initiative kibaale | Uganda |
|  | The Uganda Association of Women Lawyers, FIDA Uganda | Uganda |
|  | Action Aid Uganda | Uganda |
|  | Fresh Eyes - People to People Travel cic | United Kingdom |
|  | Friends of the Earth EWNI | United Kingdom |
|  | Global Justice Now | United Kingdom |
|  | GMB Trade Union | United Kingdom |
|  | Traidcraft Exchange | United Kingdom |
|  | UNISON | United Kingdom |
|  | Unite the Union | United Kingdom |
|  | War on Want | United Kingdom |
|  | Action on Smoking and Health | United States of America |
|  | AFL-CIO | United States of America |
|  | Agricultural Missions Inc | United States of America |
|  | Alliance for Global Justice | United States of America |
|  | Amazon Watch | United States of America |
|  | Center for Constitutional Rights | United States of America |
|  | Center for International Environmental Law | United States of America |
|  | Citizens Trade Campaign | United States of America |
|  | Committee in Solidarity with the People of El Salvador (CISPES) | United States of America |
|  | Consumer Federation of America | United States of America |
|  | Earthworks | United States of America |
|  | Franciscan Action Network | United States of America |
|  | Institute for Agriculture and Trade Policy | United States of America |
|  | Institute for Policy Studies, Global Economy Project | United States of America |
|  | International Campaign for the Rohingya | United States of America |
|  | International Center for Technology Assessment | United States of America |
|  | International Corporate Accountability Roundtable | United States of America |
|  | Knowledge Ecology International | United States of America |
|  | Maryknoll Office for Global Concerns | United States of America |
|  | People Demanding Action | United States of America |
|  | Public Citizen | United States of America |
|  | Sierra Club | United States of America |
|  | The Jus Semper Global Alliance | United States of America |
|  | REDES-Amigos de la Tierra Uruguay | Uruguay |
|  | Vanuatu National Workers Union | Vanuatu |