



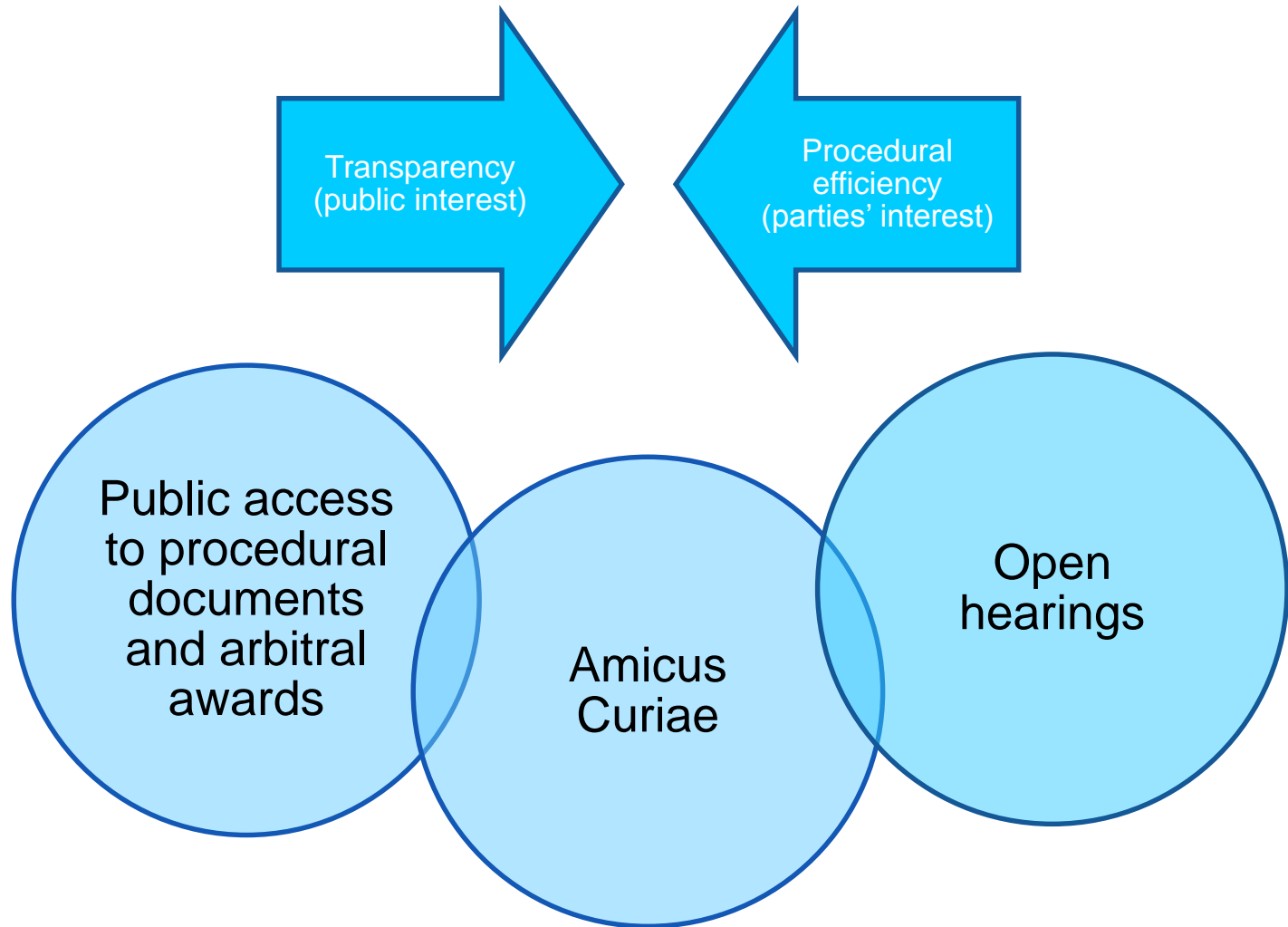
The UNCITRAL ISDS Transparency Standards



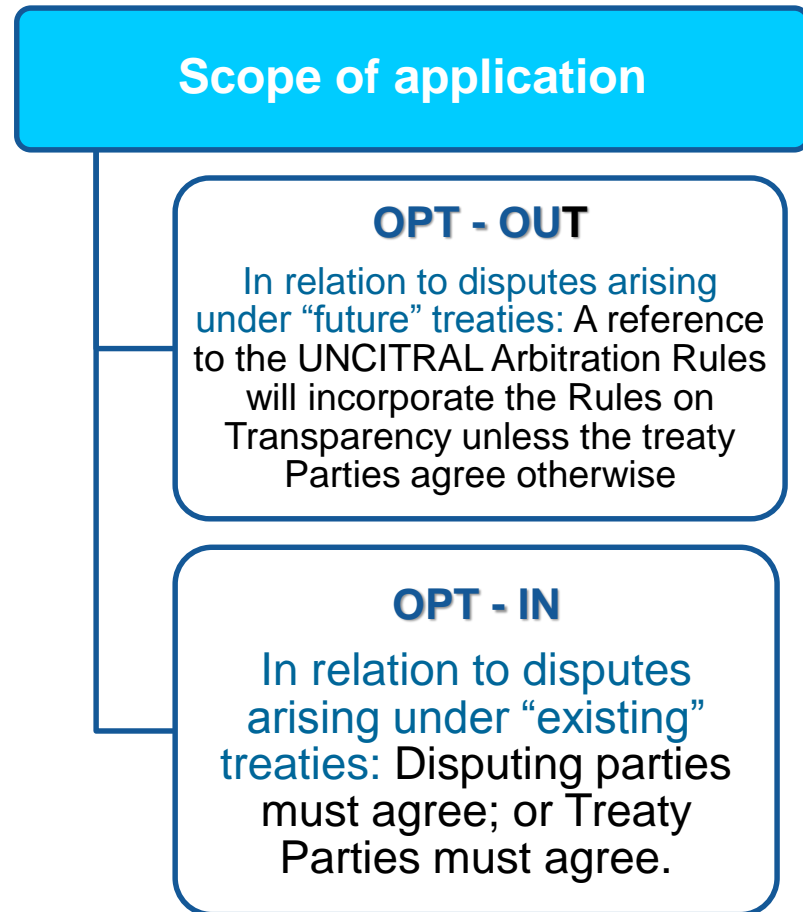
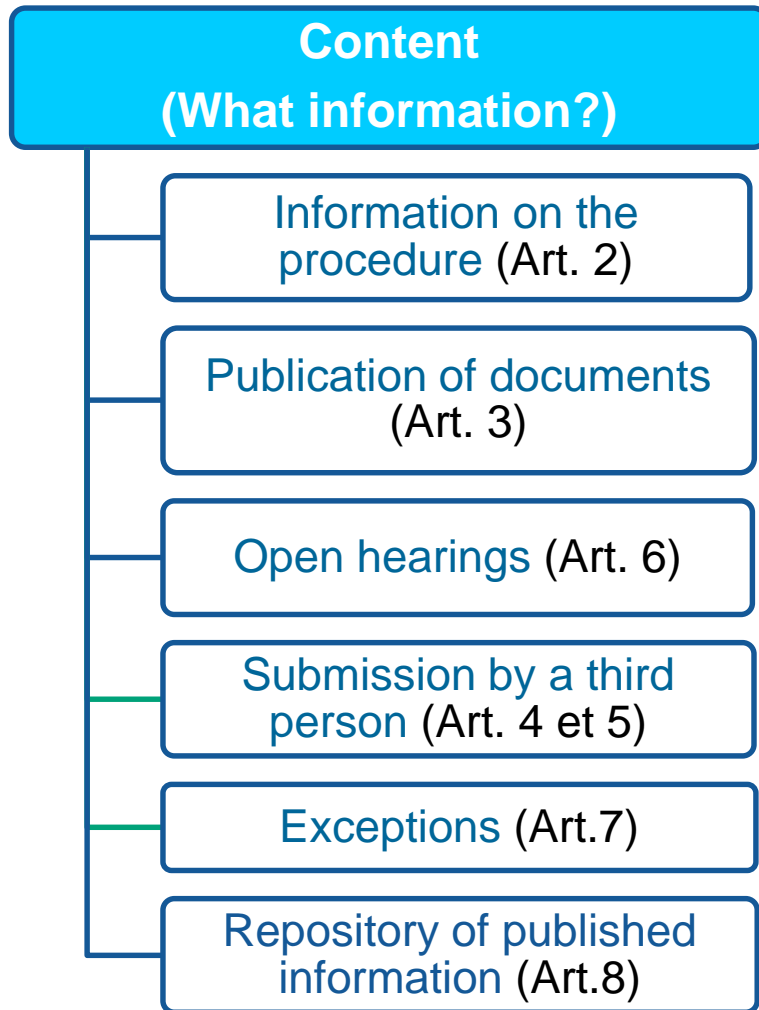
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UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration: Practical considerations



UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration



Treaties concluded after 1/4/2014 under which the UNCITRAL Rules on Transparency are applicable (non-APAC)

Treaty (Short title)	Date of signature	Date of entry into force	Article
Nigeria – Morocco BIT	03/12/2016		Article 27.1 (b) and 10.5
Rwanda – Turkey BIT	03/11/2016		Article 10.2 (b) iii
Canada – EU CETA	30/10/2016		Article 8.23.2, 8.36 and 8.37
Morocco – Rwanda BIT	19/10/2016		Article 8.2 (iii)
Morocco – Russia BIT	15/03/2016		Article 9.2 (c)
Azerbaijan – San Marino BIT	25/09/2015		Article 12.2 (c)
Guinea Bissau – Morocco BIT	28/05/2015		Article 9.3 (b)
Canada – Guinea BIT	27/05/2015		Articles 1, 24.2/3,31 and 32
Denmark – Macedonia BIT	08/05/2015	30/06/2016	Article 9.2 (b)
Burkina Faso – Canada BIT	20/04/2015		Article 25.1 (3), 32, 33
Canada – Côte d'Ivoire BIT	30/11/2014	14/12/2015	Articles 23.1 (c), 30 and 31*
Canada – Mali BIT	28/11/2014	08/06/2016	Articles 23.1 (c), 30 and 31*
Canada – Senegal BIT	27/11/2014	05/08/2016	Articles 24.1 (c), 31 and 32*
Azerbaijan – Russia BIT	29/09/2014	16/11/2015	Article 8.2 (b)
Canada – Serbia BIT	01/09/2014	27/04/2015	Articles 24.1 (c), 31 and 32*
Colombia – Turkey BIT	28/07/2014		Article 12.6 (b)
Colombia – France BIT	10/07/2014		Article 15.4(b), 15.12
Egypt – Mauritius BIT	25/06/2014	17/10/2014	Article 10.4
Moldova – Montenegro BIT	20/06/2014	23/06/2015	Article 8.2 (c)
Georgia – Switzerland BIT	03/06/2014	17/04/2015	Articles 10.2 (b); 10.3
Canada – Nigeria BIT	06/05/2014		Articles 24.1 (c), 31 and 32*

**APAC Treaties concluded after 1/4/2014
under which the UNCITRAL Rules on Transparency are applicable**

Year 2014

Treaty (Short title)	Date of signature	Date of entry into force	Article
Kyrgyzstan – Qatar BIT	08/12/2014		Article 9(3)(d)
UAE – Kyrgyzstan BIT	07/12/2014		Article 10(3)(a)
Japan - Kazakhstan BIT	23/10/2014	25/10/2015	Article 17.4 (c)
Canada - Republic of Korea FTA	22/09/2014	01/ 01/ 2015	Article 8.23: 1 (c) Articles 8.35 and 8:36
Treaty on Eurasian Economic Union	29/05/2014	01/01/2015	Article 85
Singapore – EU FTA (IP Chapter)	Initialled 22/05/214		Article 9.16
Cambodia- Belarus BIT	23/04/2014		Article 8.2 (d)
Bahrain – Russian Federation BIT	29/04/2014	25/12/2015	Article 8(2)(b)
Korea - Australia FTA	08/04/2014	12/12/2014	Article 11.16: (3) c) Article 11.21

**APAC Treaties concluded after 1/4/2014
under which the UNCITRAL Rules on Transparency are applicable**

Year 2015

Treaty (Short title)	Date of signature	Date of entry into force	Article
Iran – Russia BIT	23/12/2015		Article 9(2)(c)
Kuwait – Kyrgyzstan BIT	13/12/2015		Article 10(3)(b)
UAE – Mauritius BIT	20/09/2015		Article 10(4)(d)
China – Turkey BIT	29/07/2015		Article 9.2(c)
Japan - Oman BIT	19/06/2015		Article 15.4 (c)
Eurasian Economic Union – Viet Nam FTA	29/05/2015	05/10/2016	Articles 8.38(b)
Cambodia – Russian Federation BIT	03/03/2015	07/03/2016	Article 8(2)(b)
Japan - Mongolia EPA	10/02/2015	07/06/2016	Article 10.13:4 (c)
Japan - Ukraine BIT	05/02/2015	26/11/2015	Articles 18.4 (c)
Japan - Uruguay BIT	26/01/2015		Article 21.3 (c), Article 21(18)

**APAC Treaties concluded after 1/4/2014
under which the UNCITRAL Rules on Transparency are applicable**

Year 2016

Treaty (Short title)	Date of signature	Date of entry into force	Article
Hong Kong SAR – Chile BIT	18/11/2016		Articles 21(4)(a), Article 26(2), Article 28
Qatar – Argentina BIT	06/11/2016		Article 14 (3) (e)
Singapore – Australia FTA (Amendment)	13/10/2016		Article 24
Mongolia – Canada BIT	08/09/2016	24/02/2017	Articles 23(1)(3), 30 and 31
Japan – Kenya BIT	28/08/2016		Articles 15(4)(b)(iii), Article 15.13
Kyrgyzstan – Austria BIT	22/04/2016		Article 14(i)(c), Article 14(3)
Iran – Singapore BIT	26/02/2016		Article 11 (b)
Canada – Hong Kong SAR BIT	10/02/2016	06/09/2016	Articles 27 and 29
Japan – Iran BIT	05/02/2016		Article 18(2)(b)
TPP	04/02/2016		Articles 9.19(4)(c), 9.23(2-3), 9.24
Iran – Slovakia BIT	19/01/2016		Articles 14(4), 17(3) (a)

**United Nations
Convention on Transparency
in Treaty-based Investor-State Arbitration (New York, 2014)**
(the "Mauritius Convention on Transparency")

GA Resolution 68/109

"The General Assembly,

*"Also recommends that, subject to any provision in relevant treaties that may require a higher degree of transparency than that provided in the Rules on Transparency, **the Rules be applied through appropriate mechanisms** to investor-State arbitration initiated pursuant to treaties providing for the protection of investors or investments **concluded before the date of coming into effect of the Rules**, to the extent that such application is consistent with those treaties."*

UNCITRAL Convention on Transparency, the “Mauritius Convention on Transparency”

Scope of application

Applies to arbitration between an investor and a State/regional economic integration organization **conducted on the basis of an investment treaty concluded before 1 April 2014**

Goal:
Provides an efficient mechanism for States/regional economic integration organizations that wish to apply the UNCITRAL Rules on Transparency to existing treaties

Content (main provision)

Application of the Transparency Rules (subject to reservations): **to existing investment treaties**

Application of the Transparency Rules (subject to reservations): to any investor-State arbitration **under the UNCITRAL Arbitration Rules** or any other arbitration rules or in ad hoc proceedings

Application of the Transparency Rules (subject to reservations): **on a bilateral /multilateral or unilateral basis**

“Mauritius Convention on Transparency”: Status on 1.11.2017 Entry into force 18.10.2017

State	Signature	Ratification, Accession(*), Approval(†), Acceptance(‡) or Succession(§)
Australia	18/07/2017	
Belgium	15/09/2015	
Benin	10/07/2017	
Cameroon	11/05/2017	
Canada	17/03/2015	12/12/2016
Congo	30/09/2015	
Finland	17/03/2015	
France	17/03/2015	
Gambia	20/09/2017	
Gabon	29/09/2015	
Germany	17/03/2015	
Iraq	13/02/2017	
Italy	19/05/2015	
Luxembourg	15/09/2015	
Madagascar	01/10/2015	
Mauritius	17/03/2015	05/06/2015
Netherlands	18/05/2016	
Sweden	17/03/2015	
Switzerland	27/03/2015	18/04/2017
Syrian Arab Republic	24/03/2015	
United Kingdom of Great Britain and Northern Ireland	17/03/2015	
United States of America	17/03/2015	



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Transparency Registry

www.uncitral.org/transparency-registry

*A central repository for the publication of
information and documents in treaty-based
investor-state arbitration*

UNCITRAL Transparency Registry

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(a repository for the publication of information and documents in treaty-based investor-State arbitration)

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Respondent



Treaty



Economic sector

Type here to filter

A	Afghanistan (0)	Albania (0)	Algeria (0)	Andorra (0)	Angola (0)
	Antigua and Barbuda (0)	Argentina (0)	Armenia (0)	Australia (0)	Austria (0)
	Azerbaijan (0)				
B	Bahamas (0)	Bahrain (0)	Bangladesh (0)	Barbados (0)	Belarus (0)
	Belgium (0)	Belize (0)	Benin (0)	Bhutan (0)	Bolivarian Republic of Venezuela (0)
	Bolivia (0)	Bosnia and Herzegovina (0)	Botswana (0)	Brazil (0)	Brunei Darussalam (0)
		Bulgaria (0)	Burkina Faso (0)	Burundi (0)	
C	Cambodia (0)	Cameroon (0)	Canada (5)	Cape Verde (0)	Central African Republic (0)
	Chad (0)	Chile (0)	China (0)	Colombia (0)	Comoros (0)
	Congo (0)	Costa Rica (0)	Croatia (0)	Cuba (0)	Cyprus (0)
	Czech Republic (0)	Côte d'Ivoire (0)			
D	Democratic People's Republic of Korea (0)	Democratic Republic of the Congo (0)	Denmark (0)	Djibouti (0)	Dominica (0)

NEW MANDATE

- **Working Group III: “broad mandate to work on the possible reform of ISDS”**
 - **Government-led**
 - **Consensus based**
 - **Fully transparent**



Plea and Question

- **Plea: attend the meetings of UNCITRAL Working Group III**
 - 27 November-1 December 2017, Vienna
 - 23-27 April 2018, New York
 - Tentative date: 8-12 October 2018, Vienna
- **Question: why shouldn't your State ratify the Mauritius Convention on Transparency in ISDS?**



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arbitration and transparency in
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