



Statement on behalf of the European Union and its Member States

by

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Delegation of the European Union to the United Nations

***at the Special Committee on the Charter of the United Nations and on the
Strengthening of the Role of the Organization***

United Nations

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— CHECK AGAINST DELIVERY —

Thank you, Mr./Madam Chair,

I have the honour to speak on behalf of the European Union and its Member States.

The Candidate Countries the Republic of North Macedonia*, Montenegro* and Albania*, the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, as well as Ukraine and the Republic of Moldova align themselves with this statement.

We are pleased to participate in the thematic debate on arbitration and we look forward to our fruitful exchanges. The EU and its Member States attach great importance to all peaceful means of dispute settlement under Article 33 of the UN Charter, including arbitration.

Arbitration is the oldest of the legal methods of dispute settlement between States. It is one of the dispute settlement mechanisms provided under key multilateral treaties, such as the 1969 Vienna Convention on the Law of the Treaties and the 1982 UN Convention on the Law of the Sea.

Many multilateral and bilateral treaties contain arbitration clauses. An important number of treaty disputes are decided by arbitration. That is due to the many **advantages** of arbitration. By choosing arbitrators that enjoy their confidence, by establishing the terms of the proceeding or the choice of language, the parties feel more in control of the process.

These advantages have to be weighed against some **limitations**. In addition to their own legal costs, all costs of arbitrators, the registrar and other staff have to be borne by the parties. This renders arbitration less cost-effective. Furthermore, although awards of arbitral tribunals are binding, it is difficult to ensure that the losing party carries out the award. We remain concerned at the number of arbitral awards that remain unimplemented. By submitting a dispute to arbitrators, the parties to the dispute

* *The Republic of North Macedonia, Montenegro and Albania continue to be part of the Stabilisation and Association Process.*

committed to accept and implement the arbitral award. They should deliver on such commitments, as this is the prerequisite of an international rules-based order.

Mr./Madam Chair,

We note the increased use of **arbitration in maritime disputes** under Annex VII of UNCLOS, which provides for a compulsory dispute settlement. Furthermore, we note that the Special Chamber of ITLOS can act as arbitral tribunal under Annex VII of UNCLOS. By ratifying the Convention, all parties to UNCLOS agreed to settle their disputes by the means provided therein, which lists arbitration as one of them. They equally consented to abide by the decisions of arbitration tribunals, should they decide to have recourse to arbitration, and we therefore encourage them to follow up on such commitments.

The **Permanent Court of Arbitration** ('PCA') in The Hague has been a key driver for arbitration. Since its establishment in 1899, the PCA has been involved in various types of arbitration, including a number of arbitral proceedings instituted under Annex VII of UNCLOS. The PCA provides administrative services and support to international arbitrations. It maintains a permanent list of available arbitrators from which the parties may draw their arbitrators. Moreover, the Secretary-General of the PCA may be called upon to act as the appointing authority, or to designate another appointing authority, for the appointment of arbitrators under the PCA's Rules of Procedure.

Mr./Madam Chair,

Recourse to arbitration might not be appropriate for the resolution of all types of disputes. The EU and its Member States consider that the use of arbitration has proven inadequate for handling disputes arising under investment treaties, and prefer instead to establish a permanent **multilateral investment court** within the framework of the United Nations Commission on International Trade Law (UNCITRAL). That would address the particular challenges that derive from the decentralised structure of

arbitration and that can lead to inconsistent or conflicting decisions. The court – to be composed of a first instance and an appeal tribunal staffed by full-time adjudicators - would be empowered to hear disputes over investments between investors and States that will have accepted its jurisdiction over their bilateral investment treaties. It will ensure predictability, transparency and cost-effectiveness to the resolution of investment disputes. Such multilateral mechanism for settling investment disputes is in line with the EU approach to settling international disputes more generally, which favours multilateral solutions and reform over bilateral approaches.

Mr./Madam Chair,

In closing, the EU believes that effective **multilateralism** remains the best way to advance national as well as collective interests. We will continue to promote multilateral solutions for the resolution of disputes as a cornerstone of our external policy.

I thank you.