



Short Form v. Conventional Arbitration

Identifying and Resolving Particular Issues

I.

Sovereignty

Constitutionality

Unfeasible
consequences

Other concerns

Costs

Time and cost controls

Taxpayer could pay the costs?

A trust fund?

Countries could pay according to:

Lack of experience

Capacity
Building

Building up a
Network

Non-binding
mechanisms

Transparency vs. Confidentiality

Currently highly confidential

Business secrets

Flexibility for governments

Little knowledge about the proceedings

No precedents

Public interest in the outcomes

Trend towards more transparency

Publish redacted version of the outcome?

Finality vs. Reviewability

Currently final and binding outcomes

Effectively no possibility for review or appeal

Enforceability

Enforcement of an arbitral award rendered
Experience from other areas

Washington
Convention

New York
Convention

Benefits of setting up a Subcommittee?

Seems best for a subcommittee on MAP and effective dispute avoidance and resolution to address:

Effective MAP, including the 2012 UN Guide (based on MEMAP);