

increased in its popularity because it ensures neutrality, no diplomatic intervention and development of international legal institutions. In that regard, *NAFTA* arbitration panels would provide substantial guidance.

Janet Walker discussed the revitalization of national courts in matters relating to international commercial disputes. The rules of arbitration are based on regimes developed in the 20th century. However, the rules of procedure in the domestic courts are constantly amended and reflect the present reality. Ms. Walker noticed three trends favouring the domestic court system. First, there is a move towards litigation in domestic courts rather than international arbitration as domestic courts are increasingly flexible (parties can define their case), maintain confidentiality (courts grant protective orders, deemed and proprietary undertakings), uphold neutrality, and judgements are easily enforceable in the domestic jurisdiction. Second, domestic systems permit ordinary citizens to get involved in actions relating to international investment. Finally, some domestic court systems allow for the possibility of class action suits against multinational corporations.

4. Conclusions/ Policy Options

The panellists agreed that international arbitration plays a strong role in the resolution of international commercial and investment disputes. However, it was stressed that further clarification of the rules is required to enhance the efficiency of the arbitration system. The arbitration system, as it currently stands, attracts distrust among the general population. The confidentiality and secrecy surrounding arbitration panels and decisions gives the impression of backroom deals and cover-up. Clarifying arbitration rules (especially under *NAFTA* Chapter 11) will also provide enhanced transparency. It is important that public participation is facilitated in arbitration panels and domestic courts through education and support.