



# General Assembly

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**United Nations Commission on  
International Trade Law  
Working Group II (Dispute Settlement)  
Seventy-sixth session  
Vienna, 10–14 October 2022**

## Annotated provisional agenda

### I. Provisional agenda

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Consideration of early dismissal and preliminary determination.
5. Consideration of technology-related dispute resolution and adjudication.
6. Adoption of the report.

### II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following: Afghanistan (2028), Algeria (2025), Argentina (2028), Armenia (2028), Australia (2028), Austria (2028), Belarus (2028), Belgium (2025), Brazil (2028), Bulgaria (2028), Cameroon (2025), Canada (2025), Chile (2028), China (2025), Colombia (2028), Côte d'Ivoire (2025), Croatia (2025), Czechia (2028), Democratic Republic of the Congo (2028), Dominican Republic (2025), Ecuador (2025), Finland (2025), France (2025), Germany (2025), Ghana (2025), Greece (2028), Honduras (2025), Hungary (2025), India (2028), Indonesia (2025), Iran (Islamic Republic of) (2028), Iraq (2028), Israel (2028), Italy (2028), Japan (2025), Kenya (2028), Kuwait (2028), Malawi (2028), Malaysia (2025), Mali (2025), Mauritius (2028), Mexico (2025), Morocco (2028), Nigeria (2028), Panama (2028), Peru (2025), Poland (2028), Republic of Korea (2025), Russian Federation (2025), Saudi Arabia (2028), Singapore (2025), Somalia (2028), South Africa (2025), Spain (2028), Switzerland (2025), Thailand (2028), Türkiye (2028), Turkmenistan (2028), Uganda (2028), Ukraine (2025), United Kingdom of Great Britain and Northern Ireland (2025), United States of America (2028), Venezuela (Bolivarian Republic of) (2028), Viet Nam (2025) and Zimbabwe (2028).

2. States not members of the Commission and international governmental organizations may attend the session as observers and participate in the deliberations. In addition, invited international non-governmental organizations may attend the



session as observers and represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.

### **III. Annotations to agenda items**

#### **Item 1. Opening of the session**

3. The seventy-sixth session of the Working Group is scheduled to be held at the Vienna International Centre from 10 to 14 October 2022. Meeting hours will be from 9.30 a.m. to 12.30 p.m. and from 2 to 5 p.m., except on Monday, 10 October 2022, when the session will be opened at 10 a.m. Other arrangements for the session will be announced on the web page of Working Group II in due course.

#### **Item 2. Election of officers**

4. In accordance with its previous practice, the Working Group may wish to elect a Chairperson and a Rapporteur.

#### **Item 4. Consideration of early dismissal and preliminary determination**

5. During its seventy-third session in 2021, the Working Group decided to not include a provision with regard to pleas as to the merits and preliminary rulings in the UNCITRAL Expedited Arbitration Rules ([A/CN.9/1049](#), para. 59). However, considering the support that had been expressed for providing arbitral tribunals with tools to dismiss non-meritorious claims and defences as well as to make preliminary determinations, the Working Group decided to suggest to the Commission that it be mandated to further consider and develop a draft provision for possible inclusion in the UNCITRAL Arbitration Rules at its next session ([A/CN.9/1049](#), para. 60).

6. The Commission, at the fifty-fourth session in 2021, requested the Working Group to discuss the topic of early dismissal at its seventy-fourth session and present the results of its discussions to the Commission.<sup>1</sup> Following the deliberations at the seventy-fourth session, the Working Group requested the Secretariat to present different illustrative options to the Commission based on the views expressed during its deliberations ([A/CN.9/1085](#), para. 67).

7. The Commission, at its fifty-fifth session in 2022, considered the topic based on a note prepared by the Secretariat containing three legislative options ([A/CN.9/1114](#)). After discussion, the Commission entrusted the Working Group to develop a guidance text on early dismissal and preliminary determination (option 1) as provided in document [A/CN.9/1114](#) and to present it to the Commission for its consideration at its fifty-sixth session in 2023.<sup>2</sup>

8. At the current session, the Working Group is expected to consider the topic of early dismissal and preliminary determination on the basis of document [A/CN.9/1114](#).

#### **Item 5. Consideration of technology-related dispute resolution and adjudication**

9. The Commission, at its fifty-second session in 2019, considered a proposal by the Governments of Israel and Japan on possible future work in the field of dispute resolution in international high-tech related transactions ([A/CN.9/997](#)).<sup>3</sup> At its fifty-fourth session in 2021, the Commission requested the secretariat to continue to engage with experts with a view to preparing an outline of provisions to assist in the operation of such dispute resolution.<sup>4</sup>

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<sup>1</sup> *Official Records of the General Assembly, Seventy-sixth Session, Supplement No. 17* ([A/76/17](#)), paras. 25(e), 214(b) and 242.

<sup>2</sup> *Ibid.*, *Seventy-seventh Session, Supplement No. 17* ([A/77/17](#)), paras. 194 (b) and 229.

<sup>3</sup> *Ibid.*, *Seventy-fourth Session, Supplement No. 17* ([A/74/17](#)), paras. 212–215.

<sup>4</sup> *Ibid.*, *Seventy-sixth Session, Supplement No. 17* ([A/76/17](#)), paras. 25(e), 214(b) and 229.

10. At that session, the Commission heard a proposal to prepare rules on international adjudication as they could usefully complement the work on expedited arbitration. Consequently, the Commission decided that the desirability and feasibility of work on adjudication should be discussed at a colloquium to be held during the seventy-fifth session of the Working Group.<sup>5</sup> The Commission agreed that the agenda of the colloquium should include among others, model provisions that could be utilized in the context of technology-related disputes or provisions to be incorporated by reference in dispute resolution clauses.<sup>6</sup>

11. Accordingly, the Secretariat organized the Colloquium on Possible Future Work on Dispute Settlement during the seventy-fifth session of the Working Group.<sup>7</sup> Among the documents considered by the Working Group were draft provisions for technology-related dispute resolution submitted by a group of experts (A/CN.9/WG.II/WP.224) and a note on adjudication, including a proposal for future work submitted by the Government of Switzerland (A/CN.9/WG.II/WP.225). A round-table discussion was held during the Colloquium with the aim to provide the Commission with input on possible future work on dispute settlement (A/CN.9/1091, paras. 69–79).

12. The Commission, at its fifty-fifth session in 2022, considered the proposals on technology-related dispute resolution and adjudication. There was general support to pursue legislative work building on the common elements, mainly that both aimed to provide a legal framework for a simplified mechanism to resolve disputes in a very short time frame involving a third party with the relevant expertise, not necessarily resulting in a final award but the outcome still being enforceable across borders. After discussion, the Commission entrusted the Working Group to consider the topics of technology-related dispute resolution and adjudication jointly and to consider ways to further accelerate the resolution of disputes by incorporating elements of both proposals. It was agreed that the work should build on the UNCITRAL Expedited Arbitration Rules and that the model provisions or clauses, or other forms of legislative or non-legislative text could be prepared on matters such as shorter time frames, appointment of experts/neutrals, confidentiality, and the legal nature of the outcome of the proceedings, all of which would allow disputing parties to tailor the proceeding to their needs to further expedite the proceedings. It was stressed that such work should be guided by the needs of the users, take into account innovative solutions as well as the use of technology, and further extend the use of the UNCITRAL Expedited Arbitration Rules.<sup>8</sup>

13. At the current session, the Working Group is expected to consider the topics of technology-related dispute resolution and adjudication on a note prepared by the Secretariat (A/CN.9/WG.II/WP.227).

## Documentation

14. The following background documents are available on the UNCITRAL website:

- Reports of Working Group II (Dispute Settlement) on the work of its seventy-third session (A/CN.9/1049); seventy-fourth session (A/CN.9/1085); and seventy-fifth session (A/CN.9/1091);
- Reports of the United Nations Commission on International Trade Law on the work of its fifty-second session (*Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 17* (A/74/17)), of its fifty-third session (*Official Records of the General Assembly, Seventy-fifth Session, Supplement No. 17* (A/75/17)), of its fifty-fourth session (*Official Records of the General*

<sup>5</sup> Ibid., paras. 25(g), 214(b) and 243.

<sup>6</sup> Ibid., paras. 25(e), 25(g), 214 (b) and 233.

<sup>7</sup> Information about the Colloquium is available at <https://uncitral.un.org/en/disputesettelementcolloquium2022>.

<sup>8</sup> *Official Records of the General Assembly, Seventy-seventh Session, Supplement No. 17* (A/77/17), paras. 223–225.

*Assembly, Seventy-sixth Session, Supplement No. 17 (A/76/17)) and of its fifty-fifth session (Official Records of the General Assembly, Seventy-seventh Session, Supplement No. 17 (A/77/17), under preparation);*

- UNCITRAL Expedited Arbitration Rules with the Explanatory Note (2021);
- UNCITRAL Arbitration Rules (2013);
- UNCITRAL Model Law on International Commercial Arbitration (2006); and
- UNCITRAL Notes on Organizing Arbitral Proceedings (2016).

**Item 5. Adoption of the report**

15. The Working Group may wish to adopt, at the close of its session, a report for submission to the fifty-sixth session of the Commission, scheduled to be held in Vienna, tentatively from 3 to 21 July 2023.

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