REPORT ON THE FIFTY-NINTH SESSION OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL)

by

Charisma Lorraine T. Chan

15 August 2026

Executive Summary

The fifty-ninth session of the United Nations Commission on International Trade Law (**UNCITRAL**), held in New York from 29 June to 10 July 2026, brought together States, international organizations, non-governmental organizations, and other participants to advance work on international commercial law, with particular attention to investor-state dispute settlement (**ISDS**) reform, the operationalization of the Advisory Centre on International Investment Dispute Resolution, procedural reforms in international investment disputes and the modernization of international arbitration to align with the rapidly developing digital environment. Beyond these substantive developments, the session illustrated how UNCITRAL's work is shaped by broader questions of institutional design, accessibility, legitimacy, inclusiveness, multilingualism, capacity-building and consensus, particularly among member States with diverse legal systems, economic interests and institutional capacities, underscoring its continuing role in developing legal frameworks that are not only technically sound, but capable of securing broader acceptance and effective implementation across jurisdictions.

I. Introduction

It is easy to encounter UNCITRAL primarily through its legislative texts, including Model Laws, Explanatory Notes, Contractual Texts and numerous other instruments,[1] that have become common references in international commercial law.

However, participating in the fifty-ninth session offered a different perspective. Rather than seeing international legal instruments as completed texts, the session made visible the deliberative process behind them. Provisions that may appear straightforward in their final adopted form may, in reality, reflect hours of deliberation over institutional competence, terminology, regional representation, implementation, financial sustainability and the interests of different groups of States.

This was particularly apparent in the Commission's continuing work on the investor-state dispute settlement (ISDS) reform. The reform process is not merely concerned with improving arbitration procedure; it responds to broader concerns regarding the cost, duration, consistency, predictability and legitimacy of investor-state dispute settlement. The present attempted establishment of an Advisory Centre for International Investment Dispute Resolution should, therefore, not simply be assumed as the creation of another legal institution. It would become the first step to address structural disparities in investment dispute settlement mechanisms. At the same time, deliberation on electronic arbitral awards and electronic notices of arbitration demonstrated another dimension of UNCITRAL's work, shedding light on the need to adapt to rapidly evolving technologies without compromising legal certainty in international trade law.

What I found most striking was the coexistence of these two imperatives. UNCITRAL is simultaneously dealing with emerging technologies and long-standing questions of fairness, access and institutional capacity. The challenge is not merely to modernize international commercial law, but to modernize it in a way that remains inclusive and workable for States with very different resources and legal traditions.

II. ISDS Reform: Beyond the Question of Procedure

The reform of investor-state dispute settlement has become one of the most consequential areas of UNCITRAL's work. Working Group III was given a broad mandate in 2017 to consider possible reforms and develop relevant solutions. Since then, the reform process has evolved from identifying concerns with the existing ISDS system toward developing concrete institutional and procedural responses. The fifty-ninth session reflected that transition.

[1] https://uncitral.un.org/en/texts.

During the session, the Commission finalized the draft *Statue of the Advisory Centre on International Investment Dispute Resolution* for the operationalization of the advisory centre. It also adopted the *UNCITRAL Supplementary Provisions on the Conduct of Proceedings to Resolve International Investment Disputes*.

These developments should not be viewed independently as the concerns underlying the ISDS reform are interconnected. When the reform proceedings are expensive and technically demanding, States with limited financial and institutional resources may be placed at a disadvantage. When decisions are perceived as inconsistent or unpredictable, confidence in the system may decline. Moreover, if the reform instruments are developed without adequate participation from developing States, their eventual legitimacy and uptake may be weakened.

The Advisory Centre is particularly significant in this regard. The draft Statute expressly recognizes that an advisory centre could enhance the capacity of States and regional economic integration organizations to prevent and handle international investment disputes, particularly with least developed and developing countries. Its proposed functions and institutional structure are therefore linked to the broader objective of making participation in the investment dispute settlement system more equitable.

III. The Advisory Centre and the Question of Access

One of the most interesting aspects of the discussion concerned the location of the headquarters and regional offices of the Centre. At first glance, the issue may appear administrative; however, the location of an international institution carries institutional and political significance. A headquarters or regional office can affect accessibility, representation and perceptions of ownership. This is why the proposed revisions to Article 9 of the draft Statute considered geographical representation based on the five regional groups of the United Nations and contemplated locating regional offices within the territory of Members.

The debate illustrated an important principle: institutional accessibility is itself a component of substantive fairness. An advisory centre designed principally to assist States that may have fewer resources cannot be truly accessible if its institutional structure is perceived as geographically remote or insufficiently representative. At the same time, the Commission had to balance regional representation against resources and operational efficiency. This tension is characteristic of international institutions. Where representation has value, the institutions must remain financially and administratively viable.

The proposed decision therefore contemplated that the General Assembly could recommend the Centre's Governing Committee, when establishing regional offices, to take into account equitable geographical representation and available resources.

This deliberation was a particularly useful reminder that international legal reform cannot be evaluated solely through the wording of substantive provisions. The institutional architecture supporting those provisions can determine whether they actually work. A perfectly drafted legal framework is of limited value if the intended beneficiaries lack the capacity to use it.

IV. Procedural Reform and the Search for a More Efficient ISDS System

The Commission's adoption of the *UNCITRAL Supplementary Provisions on the Conduct of Proceedings to Resolve International Investment Disputes* provides another important piece of the reform puzzle. The decision recognized concerns previously identified by Working Group III regarding the consistency, coherence, predictability and correctness of ISDS decisions, as well as the cost and duration of proceedings. These concerns are familiar to anyone who studies international arbitration, yet their significance becomes greater when considered from the perspective of States that must defend claims involving substantial public resources.

The supplementary provisions attempt to improve the procedural framework while preserving flexibility and party autonomy. That balance is important. International arbitration has traditionally derived much of its attractiveness from procedural flexibility and excessive regulation could undermine that advantage. At the same time, flexibility without adequate safeguards can contribute to unpredictability, inefficiency and increased costs. The challenge, therefore, is not to make investment arbitration rigid; it is to make it predictable without making it inflexible.

This distinction is easy to overlook when studying arbitration doctrine in isolation. Observing the reform discussions made clear that procedural rules are ultimately instruments of policy. Questions concerning deadlines, submissions, hearings, case management and other procedural mechanisms can affect access to justice, the cost of defending a claim and the legitimacy of the outcome.

The Commission's approach is consequently notable for attempting to improve efficiency while retaining party autonomy. I found this particularly relevant to the broader debate about the future of arbitration. There is sometimes an assumption that efficiency is merely a matter of reducing procedural steps. The discussions suggested a more nuanced view. Efficiency should mean achieving a fair and reliable resolution with proportionate expenditure of time and resources. In other words, speed alone does not amount to efficiency; procedural economy must serve the quality and legitimacy of adjudication.

V. Digital Arbitration: When the Form of a Legal Document Becomes a Legal Question

Another major development was the Commission's adoption of texts concerning arbitral awards and notices of arbitration in electronic form. The Commission adopted the Recommendation regarding the interpretation of the Convention on the Recognition and Enforcement of Foreign Arbitral Award (1958) (**New York Convention**) with respect to arbitral awards in electronic form. It also approved amendments to the UNCITRAL Model Law on International Commercial Arbitration and corresponding revisions to its Explanatory Note, together with the adoption of additional notes to the UNCITRAL Notes on Organizing Arbitral Proceedings. The importance of these developments extends beyond technological convenience. For years, electronic communication has already been an ordinary feature of international arbitration. Pleadings are filed electronically, hearings may be conducted remotely, and communications between tribunals and parties routinely occur through digital platforms. Yet the legal infrastructure governing arbitration was historically designed around assumptions concerning physical documents and signatures.

The reform process therefore addresses a fundamental question: when legal systems move from paper to digital processes, which formalities remain legally necessary, and which merely reflect historical practice? The distinction matters particularly in the context of recognition and enforcement of arbitral awards. The New York Convention remains one of the central pillars of international arbitration. Its effectiveness depends heavily on courts in different jurisdictions being able to recognize and enforce awards despite differences in domestic legal systems. If the electronic awards encounter uncertainty because of domestic courts' continued assumption on paper-based documentation, technological modernization could paradoxically create new barriers to enforcement mechanisms. The Commission aimed to reduce that uncertainty with the adoption of the Recommendation on the interpretation of the New York Convention with respect to electronic arbitral awards.

The adoption of the Recommendation is particularly significant because it aligns with existing international framework rather than treating technological developments as requiring an entirely separate system. This reflects a broader characteristic of UNCITRAL's work: modernization does not necessarily require a replacement of established instruments. Sometimes the more effective approach is to interpret, supplement or carefully amend existing frameworks so that they remain functional under new circumstances.

This approach is important in digital commerce as well. Technology evolves considerably faster than international treaty-making. A legal framework that requires complete replacement every time technology changes would quickly become obsolete. The better objective is therefore technological neutrality combined with legal certainty.

VI. Consensus as a Method of Lawmaking, Not Merely a Procedural Preference

Perhaps one of the most important lessons from the session was the centrality of consensus. The Commission repeatedly emphasized the importance of inclusive participation and consensus-based decision-making. This was especially evident in the discussions surrounding the Advisory Centre and observer participation.

The issue of the International Organization for Mediation (**IOMed**) was illustrative. Divergent views emerged regarding whether IOMed should be added to the list of international governmental organizations invited to UNCITRAL sessions. Some delegations questioned its relatively short institutional track record, while others emphasized the relevance of its work and the importance of broad participation by observers.

Rather than forcing a binary outcome, the Commission deferred the final decision and agreed on an interim arrangement allowing IOMed to continue participating in Working Groups II and III and at the sixtieth session. This demonstrated the importance of consensus, which does not necessarily mean that everyone begins from the same position. Rather, it can provide a mechanism through which disagreement is managed without undermining the legitimacy of the institution.

The Commission session also reflects the practical reality of international lawmaking. UNCITRAL is composed of States with different legal traditions, economic interests and policy priorities. A text adopted through a process perceived as exclusionary may encounter difficulties during implementation even if its technical content is strong. Consequently, the session emphasized transparent and inclusive deliberations, broad engagement by States, and the participation of governmental and non-governmental organizations with relevant experience and expertise.

I found the emphasis on inclusiveness during the session particularly significant because it challenges a common perception of international law as something produced primarily through expert drafting. Expertise is indispensable, but expertise alone does not create legitimacy. International legal instruments must ultimately be capable of being accepted, implemented and used by States that did not necessarily approach the negotiating table with the same assumptions.

VII. The Developing World and the Practical Meaning of Capacity-Building

Another theme that ran through the session was implementation. UNCITRAL's work does not end when a Model Law, Convention or other legal text is adopted. The Commission's discussions concerning technical assistance, judicial capacity-building, the UNCITRAL Regional Centre for Asia and the Pacific (**RCAP**), CLOUT system, online courses and other outreach activities demonstrated the importance of the stages following adoption. This is particularly relevant to developing countries. For instance, a State may encounter significant challenges in implementing an UNCITRAL text after its formal adoption. Courts may require training. Legislators may need technical assistance. Practitioners may not yet be familiar with the new framework. Case law may develop unevenly. The Commission therefore recognized the growing demand for support concerning digital transformation and the expansion of judicial capacity-building, particularly in cross-border insolvency proceedings.

The same issues arose in the discussions surrounding the UNCITRAL website, e-learning programme and UNCITRAL Library. Although the issues may seem peripheral compared to the adoption of major legal instruments, they are actually part of the infrastructure of legal harmonization. The CLOUT system is a good example. The migration of CLOUT abstracts to the UNCITRAL website following the decommissioning of the database demonstrated both technological and financial constraints. At the same time, the Commission emphasized the continued importance of disseminating case law and encouraging States to designate national correspondents. This matters because harmonization cannot be achieved merely by enacting identical or similar statutory provisions. Courts in different jurisdictions must also develop a degree of convergence in how those provisions are interpreted. That is where case-law dissemination becomes crucial. The broader lesson is that legal harmonization is partly an information problem. Courts and practitioners cannot apply international standards consistently if they do not know how those standards are being interpreted elsewhere.

VIII. Modernization Without Losing Its Institutional Identity

The session took place during a particularly significant moment for UNCITRAL as 2026 marks the sixtieth anniversary of its establishment. The Commission expressly recognized the continuing relevance of UNCITRAL in responding to digitalization, technological innovation and changing patterns of international commerce. This is an important institutional challenge. UNCITRAL has accumulated a substantial body of texts over six decades. Its continuing relevance will depend not simply on producing more instruments, but on determining where international harmonization genuinely adds value.

The discussions during the session suggested that UNCITRAL's future may increasingly involve issues where traditional categories of commercial law intersect with technology and institutional capacity, including digital platforms, digital payments, digital assets, artificial intelligence, electronic documents, cross-border insolvency and investment disputes. At the same time, the Commission's emphasis on developing countries demonstrates that technological modernization cannot become detached from development realities. There is a risk that international commercial law could become increasingly sophisticated while becoming less accessible to jurisdictions with fewer resources. For me, this is one of the central questions for UNCITRAL's next years: How can the organization remain at the forefront of legal innovation while ensuring that innovation does not widen the gap between jurisdictions

with different institutional capacities? The answer may lie precisely in the combination of normative work and capacity-building that characterized the fifty-ninth session.

IX. Reflection

The experience of observing UNCITRAL's work changed the way I think about international arbitration. Law school and early legal practice can make arbitration appear primarily as a dispute-resolution mechanism: parties agree to arbitrate, proceedings take place before a tribunal, an award is issued, and enforcement follows. However, the UNCITRAL process reveals a much larger ecosystem.

Behind every procedural rule are questions of institutional legitimacy. Behind every enforcement provision are questions of domestic implementation. Behind every reform proposal are competing interests that must be reconciled. And behind every international instrument is the difficult task of obtaining consensus among States with different priorities.

This perspective is particularly relevant to the Willem C. Vis International Commercial Arbitration Moot community. The Moot teaches us to analyze legal problems from the perspective of parties and tribunals. UNCITRAL demonstrates what happens before those rules reach the parties and tribunals: governments and experts must negotiate the framework within which future disputes will be resolved.

That makes participation in UNCITRAL especially valuable for young arbitration practitioners. It teaches a form of legal reasoning that is different from traditional advocacy. Instead of asking only, *"What does the law provide?"*, one begins asking: Why was this rule designed this way? What problem is the rule intended to solve? Who benefits from it? Who might encounter difficulties in implementing it? How can different legal traditions accept a common framework? What happens when technological developments make existing assumptions obsolete? These questions make international arbitration more intelligible because they connect doctrine with institutional purpose.

X. Conclusion

The fifty-ninth session demonstrated that UNCITRAL's work is entering an important phase. The organization is not merely developing new rules; it is reconsidering how international commercial law can remain effective, legitimate and accessible in a rapidly changing global environment.

The developments concerning ISDS were particularly significant. The operationalization of the Advisory Centre, the supplementary provisions on the conduct of investment dispute proceedings, and the continuing development of a multilateral instrument on ISDS reform illustrate a shift from identifying problems to constructing institutional and procedural solutions. The adoption of reforms concerning electronic arbitral awards and notices of arbitration similarly demonstrates UNCITRAL's effort to ensure that established arbitration frameworks remain workable in a digital environment. Yet perhaps the most important takeaway from the session is broader.

International legal harmonization is not simply the creation of uniform rules. It is a process of building trust among jurisdictions that do not necessarily share the same legal traditions, economic circumstances or institutional capacities. That process requires technical expertise, but also patience, compromise, representation and an appreciation of the practical realities of implementation.

The Commission's decision to hold its sixtieth session in Vienna from 5 to 23 July 2027 and its approved schedule of Working Group sessions demonstrate that the work will continue at considerable pace. Working Groups II and III, in particular, will continue to shape the future of international dispute settlement, while the Commission's planned joint work with the Hague Conference on Private International Law reflects the increasing interconnectedness of digital platforms, digital payments and secured transactions involving digital assets.

For members of the Moot Alumni Association, this is an especially interesting time to engage with UNCITRAL. The experience of the Vis Moot naturally provides a strong foundation for understanding international commercial arbitration. However, attending UNCITRAL sessions reveals the other side of the profession: the process by which the rules themselves are discussed, challenged, refined and ultimately adopted. That experience is worth pursuing.

For me, perhaps the most memorable lesson was that international lawmaking is not an abstract exercise taking place somewhere far removed from legal practice. The provisions debated around the table will eventually determine how governments, businesses, arbitrators, courts and practitioners approach real disputes. To witness that process firsthand is to see international arbitration not merely

as a body of rules, but as a continuing project of cooperation. And that, ultimately, is what makes UNCITRAL worth paying attention to as it begins its seventh decade.