

Report on the 83rd Session of the United Nations Commission on International Trade Law (UNCITRAL) Working Group II: Dispute Settlement

By

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Executive Summary

The 83rd Session of the United Nations Commission on International Trade Law (“UNCITRAL”) Working Group II (“WGII”) covered two main areas: the finalization of amendments to the UNCITRAL Model Law on International Commercial Arbitration (“**Model Law**”) and related documents regarding arbitral awards and notices of arbitration in electronic form, and a Colloquium on the use of artificial intelligence (“AI”) in dispute resolution and procedural guidance for remote hearings and mediation. The Session ended with the adoption of a report to be submitted to the 59th UNCITRAL Commission Session in June–July 2026.

Electronic Arbitral Awards: Finalizing the Model Law Amendments

At the previous Session (Vienna, October 2025), the WGII had already approved the substantive texts: amendments to Articles 2, 31, and 35 of the Model Law, and a Recommendation regarding the interpretation of the New York Convention with respect to electronic awards. Now, the task was to finalize the Explanatory Note to the Model Law and the Notes on Organizing Arbitral Proceedings.

The amendments themselves reflect a straightforward principle: an arbitral award cannot be refused recognition or enforcement solely on the ground that it is in electronic form. Article 2 was amended to define “arbitral award” as including an award in electronic form. Article 31 received a new paragraph (5) allowing the tribunal to render an award electronically if the parties agree, or if neither party objects after having been given the opportunity to do so. Article 35 received a new paragraph (3) codifying the non-discrimination principle with respect to recognition and enforcement.

Debate during the Session focused on the drafting of the Explanatory Note. Several delegations emphasized that the new paragraphs must make clear that the amendments do not resolve questions of functional equivalence; that is, they do not specify the conditions under which an electronic award is treated as the legal equivalent of a paper-based one. That question is deliberately left to national laws. Delegates also discussed whether to add a corresponding clarification to Article 34 (setting aside), modeled on the language of Article 35: “*an award in electronic form shall not be set aside solely on the ground that it is in electronic form.*” There was some debate over the word “*solely*,” with concern that it could inadvertently suggest that the electronic nature of an award might serve as a supporting, non-standalone ground for set-aside.

On the Notes on Organizing Arbitral Proceedings, the WGII considered adding a new note on the choice between paper and electronic form for awards. The proposed text acknowledges that while electronic awards offer efficiency gains, such as faster delivery, easier distribution, and more efficient storage; however, some jurisdictions still require paper awards with wet-ink

signatures, and certain arbitral institutions maintain paper-only practices. The note advises tribunals to consult the parties in advance about applicable requirements, including in jurisdictions in which enforcement may later be sought. A minor structural question, whether to place the new note after paragraph 144 or as a standalone section deleting references to “form” from an existing note, was also discussed.

Electronic Notices of Arbitration: Drafting Article 3(1 bis)

The second major substantive discussion concerned the regulation of electronic notices of arbitration. The Secretariat proposed a new paragraph (1 bis) to Article 3 of the Model Law, which governs written communications. The proposed provision states that delivery by electronic communication is valid when sent to an electronic address specifically designated by the recipient for that purpose, or authorized by the arbitral tribunal.

The most contested aspect was whether to include fallback options for situations for situations in which no address has been designated. The Secretariat’s note presented two bracketed alternatives: delivery to an address “*regularly monitored and actively used*” by the addressee, or to an address “*regularly used for communications between the parties in their prior dealings.*” Both options drew pushback from several delegations, who argued that qualitative terms of this kind are inherently difficult to verify and could leave a party exposed to a valid notice it never actually received. The competing concern raised by other delegations was that without a fallback, a respondent could avoid being served simply by refusing to designate an electronic address.

The Secretariat also presented a detailed survey of how different legal systems and arbitral institutions currently handle electronic service. The approaches vary widely: some domestic laws allow service to a party’s last known electronic address, others require the first notice to be delivered in person before electronic communication can be used, and some institutional rules simply allow any method of communication so long as dispatch can be evidenced. This comparative backdrop helped frame the discussion, highlighting the practical consequences of different drafting choices and the difficulty of producing a single rule that fits across such varied legal environments.

A key point emphasized throughout was that Article 3(1 bis) does not mandate electronic delivery; it simply defines when electronic delivery counts as valid. The sender retains full flexibility to choose paper delivery, electronic delivery, or both in sequence. The provision is also framed around the concept of a deemed receipt rather than an actual receipt, consistent with the existing structure of Article 3.

Colloquium: AI in Dispute Resolution and Remote Proceedings

The Colloquium, held over the first two days of the Session, was organized into three panels.

Artificial Intelligence Used by Arbitrators

The first panel examined AI tools being deployed in arbitration proceedings, distinguishing between substantive support, such as document review, case analysis, and legal research, and procedural support, such as scheduling and case management. Central to the discussion was whether an arbitrator's use of AI tools could affect the enforceability of an award, particularly if parties were not informed. Panelists debated whether transparency and disclosure obligations should be introduced, and whether the use of AI by only one party's legal team, rather than the tribunal itself, could give rise to due process concerns. The panel was also asked to consider measures that could mitigate risks to the validity and enforceability of awards arising from AI use.

Procedural Guidance for Remote Hearings in Arbitration

The second panel focused on practical guidance for conducting remote hearings. Speakers drew on experiences accumulated since the widespread shift to virtual proceedings in recent years, identifying what tools and protocols have proven effective and where gaps in best practices remain. Key themes included ensuring that remote proceedings uphold due process, maintaining party confidence in the fairness of the process, and managing the practical challenges of cross-border hearings involving participants in multiple time zones. The unequal availability of reliable internet and technology infrastructure across different regions was flagged as a structural concern that guidance documents alone cannot fully address.

Remote Mediation

The third panel turned to remote mediation, which raises distinct challenges compared to arbitration. Mediation depends heavily on trust-building between the parties and the mediator, and participants examined whether remote formats undermine that dynamic or whether they can, with the right setup, actually improve access and reduce costs. The panel sought to identify practical approaches and safeguards that preserve the core principles of mediation (confidentiality, party autonomy, and neutrality) in a virtual environment.

Following the Colloquium, the WG II was tasked with formulating a recommendation on possible future work in all three areas for submission to the Commission at its 59th Session. The broader project also includes platform-based dispute resolution, which was the subject of a separate expert group meeting held in December 2025 under the Inclusive Global Legal Innovation Platform.

Conclusion

The Session concluded with the adoption of a report to the Commission. The Model Law amendments and the New York Convention Recommendation are expected to be formally adopted at the 59th Commission Session in New York in June–July 2026. Work on electronic notices under Article 3 is ongoing, with the bracketed fallback options still requiring resolution by consensus. On AI and remote proceedings, the WG II will formulate its recommendation to

the Commission, setting the course for what is likely to become a significant new UNCITRAL project over the coming years.

Attending this Session was a genuinely instructive experience. What stood out most was watching delegations from common law, civil law, and mixed legal systems work through the practical consequences of each drafting option; not in the abstract, but against the backdrop of real cases, real enforcement challenges, and real parties who might one day rely on these rules. The discussions on AI were particularly striking: the legal community is clearly aware that the technology is already in use in arbitration proceedings, and the pressure to develop guidance is building quickly.