



General Assembly

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**United Nations Commission on
International Trade Law
Working Group II (Dispute Settlement)
Sixty-eighth session
New York, 5–9 February 2018**

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Preparation of instruments on enforcement of international commercial settlement agreements resulting from mediation.
5. Organization of future work.
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: Argentina (2022), Armenia (2019), Australia (2022), Austria (2022), Belarus (2022), Brazil (2022), Bulgaria (2019), Burundi (2022), Cameroon (2019), Canada (2019), Chile (2022), China (2019), Colombia (2022), Côte d'Ivoire (2019), Czechia (2022), Denmark (2019), Ecuador (2019), El Salvador (2019), France (2019), Germany (2019), Greece (2019), Honduras (2019), Hungary (2019), India (2022), Indonesia (2019), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2019), Kenya (2022), Kuwait (2019), Lebanon (2022), Lesotho (2022), Liberia (2019), Libya (2022), Malaysia (2019), Mauritania (2019), Mauritius (2022), Mexico (2019), Namibia (2019), Nigeria (2022), Pakistan (2022), Panama (2019), Philippines (2022), Poland (2022), Republic of Korea (2019), Romania (2022), Russian Federation (2019), Sierra Leone (2019), Singapore (2019), Spain (2022), Sri Lanka (2022), Switzerland (2019), Thailand (2022), Turkey (2022), Uganda (2022), United Kingdom of Great Britain and Northern Ireland (2019), United States of America (2022), Venezuela (Bolivarian Republic of) (2022) and Zambia (2019).

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 sixty-eighth session of the Working Group will be held at the United Nations Headquarters, New York, from 5 to 9 February 2018. Meeting hours will be from 10 a.m. to 1 p.m. and from 3 to 6 p.m., except on Monday, 5 February 2018, when the session will be opened at 10.30 a.m.

Item 2. Election of officers

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

Item 4. Preparation of instruments on enforcement of international commercial settlement agreements resulting from mediation

(a) Previous deliberations

5. At its forty-seventh session, in 2014, the Commission had before it a proposal for future work in relation to the question of enforceability of settlement agreements resulting from international commercial conciliation ([A/CN.9/822](#)). The Commission agreed that the Working Group should consider at its sixty-second session the issue of enforcement of international settlement agreements resulting from conciliation and should report to the Commission on the feasibility and possible form of work in that area.¹

6. At its forty-eighth session, in 2015, the Commission had before it the report of the Working Group on the work of its sixty-second session ([A/CN.9/832](#)) as well as comments by States on their legislative framework in relation to the enforcement of settlement agreements ([A/CN.9/846](#) and its addenda). The Commission agreed that the Working Group should commence work at its sixty-third session on the topic of enforcement of settlement agreements to identify relevant issues and develop possible solutions, including the possible preparation of a convention, model provisions or guidance texts. The Commission also agreed that the mandate of the Working Group with respect to that topic should be broad to take into account the various approaches and concerns.²

7. At its sixty-third (Vienna, 7–11 September 2015) and sixty-fourth (New York, 1–5 February 2016) sessions, the Working Group considered that topic on the basis of notes by the Secretariat ([A/CN.9/WG.II/WP.190](#) and [A/CN.9/WG.II/WP.195](#), respectively). At its sixty-fourth session, the Working Group requested the Secretariat to prepare a document outlining the issues considered at the session and setting out draft provisions without prejudice to the final form of the instrument, grouping provisions into broad categories ([A/CN.9/867](#), para. 15).

8. At its forty-ninth session, in 2016, the Commission had before it the report of the Working Group on the work of its sixty-third and sixty-fourth sessions ([A/CN.9/861](#) and [A/CN.9/867](#), respectively). After discussion, the Commission commended the Working Group for its work on the preparation of an instrument dealing with enforcement of international commercial settlement agreements

¹ *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17* ([A/69/17](#)), para. 129.

² *Ibid.*, *Seventieth Session, Supplement No. 17* ([A/70/17](#)), para. 142.

resulting from conciliation and confirmed that the Working Group should continue its work on the topic.³

9. At its sixty-fifth session (Vienna, 12–23 September 2016), the Working Group continued its deliberations on the preparation of an instrument on enforcement of international settlement agreements resulting from conciliation on the basis of a note by the Secretariat ([A/CN.9/WG.II/WP.198](#)). The Working Group requested the Secretariat to prepare draft provisions showing how they would be adjusted depending on whether the instrument would take the form of a convention or model legislative provisions ([A/CN.9/896](#), para. 12). At its sixty-sixth session (New York, 6–10 February 2017), the Working Group continued its consideration of that topic on the basis of a note by the Secretariat ([A/CN.9/WG.II/WP.200](#) and addendum). At that session, the Working Group considered a compromise proposal, which addressed five key issues as a package ([A/CN.9/901](#), para. 52).

10. At its fiftieth session, in 2017, the Commission had before it the report of the Working Group on the work of its sixty-fifth and sixty-sixth sessions ([A/CN.9/896](#) and [A/CN.9/901](#), respectively). The Commission took note of the compromise reached by the Working Group at its sixty-sixth session and expressed support for the Working Group to continue pursuing its work based on that compromise.⁴

11. At its sixty-seventh session (Vienna, 2–6 October 2017), the Working Group continued its consideration of that topic on the basis of a note by the Secretariat ([A/CN.9/WG.II/WP.202](#) and addendum). At that session, the Working Group confirmed its shared understanding that the replacement of the terms “conciliation”, “conciliator” and similar terms in the instrument as well as other UNCITRAL texts on conciliation with the terms “mediation”, “mediator” and similar terms could be implemented as a basis for further consideration by the Working Group ([A/CN.9/929](#), paras. 102–104).

12. At its sixty-eighth session, the Working Group is expected to continue its consideration of a draft convention, and of amendments to the Model Law on International Commercial Conciliation (2002), on the basis of a note by the Secretariat ([A/CN.9/WG.II/WP.205](#) and addendum).

(b) Documentation

13. The Working Group will have before it a note by the Secretariat regarding the preparation of instruments on enforcement of international commercial settlement agreements resulting from mediation ([A/CN.9/WG.II/WP.205](#) and addendum).

14. A limited number of the following background documents will be made available at the session:

- UNCITRAL Conciliation Rules (1980);
- UNCITRAL Model Law on International Commercial Conciliation with Guide to Enactment and Use (2002);
- Reports of the United Nations Commission on International Trade Law on the work of its thirty-fifth session (*Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* ([A/57/17](#))); forty-seventh session (*Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17* ([A/69/17](#))); forty-eighth session (*Official Records of the General Assembly, Seventieth Session, Supplement No. 17* ([A/70/17](#))); forty-ninth session (*Official Records of the General Assembly, Seventy-first Session, Supplement No. 17* ([A/71/17](#))); and fiftieth session (*Official Records of the General Assembly, Seventy-second Session, Supplement No. 17* ([A/72/17](#)));

³ Ibid., *Seventy-first Session, Supplement No. 17* ([A/71/17](#)), paras. 162–165.

⁴ Ibid., *Seventy-second Session, Supplement No. 17* ([A/72/17](#)), paras. 236–239.

- Reports of Working Group II (Dispute Settlement) on the work of its sixty-second ([A/CN.9/832](#)), sixty-third ([A/CN.9/861](#)), sixty-fourth ([A/CN.9/867](#)), sixty-fifth ([A/CN.9/896](#)), sixty-sixth ([A/CN.9/901](#)), and sixty-seventh ([A/CN.9/929](#)) sessions;
- Settlement of commercial disputes, international commercial conciliation, enforceability of settlement agreements, notes by the Secretariat: [A/CN.9/822](#); [A/CN.9/WG.II/WP.187](#); [A/CN.9/WG.II/WP.190](#); [A/CN.9/WG.II/WP.192](#); [A/CN.9/WG.II/WP.195](#); [A/CN.9/WG.II/WP.198](#); [A/CN.9/WG.II/WP.200](#) and addendum; [A/CN.9/WG.II/WP.202](#) and addendum; and [A/CN.9/WG.II/WP.203](#);
- Settlement of commercial disputes, enforcement of settlement agreements resulting from international commercial conciliation, compilation of comments by States: [A/CN.9/846](#) and addenda 1 to 5; [A/CN.9/WG.II/WP.188](#); [A/CN.9/WG.II/WP.191](#); and [A/CN.9/WG.II/WP.196](#) and addendum.

15. UNCITRAL documents are posted on the UNCITRAL website (www.uncitral.org) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents by accessing the Working Group's page in the "Working Groups" section of the UNCITRAL website.

Item 5. Organization of future work

16. The Working Group may wish to address possible future work topics so that the Commission may determine whether or not to include them in its work programme.

Item 6. Adoption of the report

17. The Working Group may wish to adopt, at the close of its session, a report for submission to the fifty-first session of the Commission, scheduled to be held in New York, from 25 June to 13 July 2018. The main conclusions reached by the Working Group at its ninth meeting (on Friday morning) will be summarily read out for the record at the tenth meeting and subsequently incorporated into the report.

IV. Scheduling of meetings

18. The sixty-eighth session of the Working Group will last for five working days. There will be ten half-day meetings available for consideration of the agenda items. The Working Group may wish to note that, consistent with decisions taken by the Commission at its thirty-fourth session,⁵ the Working Group is expected to hold substantive deliberations during the first nine half-day meetings (that is, from Monday to Friday morning), with a draft report on the entire period being prepared by the Secretariat for adoption at the tenth and last meeting of the Working Group (on Friday afternoon).

19. The Working Group may wish to note that its sixty-ninth session is tentatively scheduled to be held in Vienna, from 10 to 14 September 2018.

⁵ Ibid., *Fifty-sixth Session, Supplement No. 17* and corrigendum ([A/56/17](#) and Corr.3), para. 381.