



# General Assembly

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**United Nations Commission on  
International Trade Law  
Working Group II (Dispute Settlement)  
Seventy-fourth session  
Vienna, 27 September–1 October 2021**

## **Annotated provisional agenda**

### **I. Provisional agenda**

1. Opening of the session.
2. Adoption of the agenda.
3. Consideration of the draft explanatory note to the UNCITRAL Expedited Arbitration Rules.
4. Consideration of the topic of early dismissal.
5. 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: Algeria (2025), Argentina (2022), Australia (2022), Austria (2022), Belarus (2022), Belgium (2025), Brazil (2022), Burundi (2022), Cameroon (2025), Canada (2025), Chile (2022), China (2025), Colombia (2022), Côte d'Ivoire (2025), Croatia (2025), Czechia (2022), Dominican Republic (2025), Ecuador (2025), Finland (2025), France (2025), Germany (2025), Ghana (2025), Honduras (2025), Hungary (2025), India (2022), Indonesia (2025), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2025), Kenya (2022), Lebanon (2022), Lesotho (2022), Libya (2022), Malaysia (2025), Mali (2025), Mauritius (2022), Mexico (2025), Nigeria (2022), Pakistan (2022), Peru (2025), Philippines (2022), Poland (2022), Republic of Korea (2025), Romania (2022), Russian Federation (2025), Singapore (2025), South Africa (2025), Spain (2022), Sri Lanka (2022), Switzerland (2025), Thailand (2022), Turkey (2022), Uganda (2022), Ukraine (2025), United Kingdom of Great Britain and Northern Ireland (2025), United States of America (2022), Venezuela (Bolivarian Republic of) (2022), Viet Nam (2025) and Zimbabwe (2025).

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-fourth session of the Working Group is scheduled to be held at the Vienna International Centre from 27 September to 1 October 2021 with arrangements in place to allow for in-person and online participation. Meeting hours and other arrangements for the session will be announced on the web page of Working Group II in due course.

#### Item 3. Consideration of the draft explanatory note to the Expedited Arbitration Rules

##### (a) Previous deliberations

4. The Commission, at its fifty-first session in 2018, agreed that Working Group II should be mandated to take up issues relating to expedited arbitration.<sup>1</sup> Accordingly, the Working Group commenced its consideration of issues relating to expedited arbitration at its sixty-ninth session (New York, 4–8 February 2019), which continued until the seventy-third session (New York, 22–26 March 2021).

5. The Commission, at the fifty-fourth session in 2021, adopted the UNCITRAL Expedited Arbitration Rules (the “Expedited Rules”) and the new article 1, paragraph 5 of the UNCITRAL Arbitration Rules, both of which shall come into effect on 19 September 2021.<sup>2</sup> The Commission also approved the Explanatory Note to the UNCITRAL Expedited Arbitration Rules (the “Explanatory Note”) in principle and tasked Working Group II to finalize the Explanatory Note at its seventy-fourth session based on its decisions and deliberations.<sup>3</sup>

#### Item 4. Consideration of the topic of early dismissal

6. During its deliberations on the Expedited Rules, the Working Group decided to not include a provision with regard to pleas as to the merits and preliminary rulings in the Expedited 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 consider and develop a draft provision further for possible inclusion in the UARs at its next session (A/CN.9/1049, para. 60).

7. The Commission, at the fifty-fourth session in 2021, considered the suggestion by the Working Group. While some concerns were expressed (including the divergence in approaches in different jurisdictions and also in the context of investment arbitration), the Commission requested the Working Group to discuss the topic of early dismissal at its seventy-fourth session upon finalizing the Explanatory Note and present the results of its discussions to the fifty-fifth session of the Commission.<sup>4</sup>

##### (b) Documentation

8. At its seventy-fourth session, the Working Group is expected to finalize the Explanatory Note on the basis of a note by the Secretariat (A/CN.9/WG.II/WP.219), which provides a revised version taking into account the deliberations and decisions

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<sup>1</sup> *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 252.

<sup>2</sup> *Ibid.*, *Seventy-sixth Session, Supplement No. 17 (A/76/17)*, under preparation.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

of the Commission at its fifty-fourth session. The Working Group is also expected to consider a draft provision on early dismissal based on a note by the Secretariat (A/CN.9/WG.II/WP.220).

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

- Reports of Working Group II (Dispute Settlement) on the work of its sixty-ninth session ([A/CN.9/969](#)), of its seventieth session ([A/CN.9/1003](#)), of its seventy-first session ([A/CN.9/1010](#)), of its seventy-second session ([A/CN.9/1043](#)), and of its seventy-third session ([A/CN.9/1049](#));
- Reports of the United Nations Commission on International Trade Law on the work of its fifty-first session (*Official Records of the General Assembly, Seventy-third Session, Supplement No. 17* ([A/73/17](#))), 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](#))) and of its fifty-fourth session (*Official Records of the General Assembly, Seventy-sixth Session, Supplement No. 17* (A/76/17), under preparation).
- UNCITRAL Expedited Arbitration Rules (2021), contained in the annex to the Report of the United Nations Commission on International Trade Law on the work of fifty-fourth session (A/76/17, under preparation).
- UNCITRAL Arbitration Rules (2013);
- UNCITRAL Model Law on International Commercial Arbitration (2006);
- UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (2014); and
- UNCITRAL Notes on Organizing Arbitral Proceedings (2016).

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