



October 1-2, 2024

# Interface between UNCITRAL arbitration and e-commerce texts

## UNCITRAL Working Group II Colloquium on Recognition and Enforcement of Electronic Arbitral Awards

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## KEY DRIVERS

INTERPLAY UNCITRAL TEXTS ON ARBITRATION AND E-COMMERCE

SYSTEM APPROACH

INTERNAL AND EXTERNAL COHERENCE (policy-specific?)

TECHNOLOGY-SENSITIVENESS – TECHNOLOGY-NEUTRALITY

# KEY DRIVERS AND RELEVANT TEXTS

## INTERPLAY UNCITRAL TEXTS ON ARBITRATION AND E-COMMERCE

SYSTEM APPROACH

INTERNAL AND EXTERNAL  
COHERENCE (policy-specific?)

TECHNOLOGY-SENSITIVENESS –  
TECNOLOGY-NEUTRALITY

ECC

MLIT

MLEC

MLAC

MLES

MLETR

## MAPPING OUT the INTERFACE

*Restriction*

Contractual  
context

*(Art. 20 ECC)*

I.- Guiding Principles

II.- Concepts and definitions

III.- Form and formalities

IV.- Legal recognition rules

*Enablers*

Goals

Intended use

## MAPPING OUT the INTERFACE

*Restriction*

**Contractual  
context**

**(Art. 20 ECC)**

### II.- Concepts and definitions

*“Data message” means information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not limited to, electronic data interchange, electronic mail, telegram, telex or telecopy*

*“Electronic communication” means any communication that the parties make by means of data messages*

*“Information system” means a system for generating, sending, receiving, storing or otherwise processing data messages*

*(...) electronic record, trust service, electronic signature, certificate...*

# MAPPING OUT the INTERFACE

*Restriction*

Contractual  
context

*(Art. 20 ECC)*

## II.- Concepts and definitions

*“Data message”*

*“Electronic communication”*

*“Information system”*



*Electronic arbitral award:*

- necessary?
- advisable?
- by law?

SYSTEM APPROACH

INTERNAL AND EXTERNAL  
COHERENCE (policy-specific?)

TECHNOLOGY-SENSITIVENESS –  
TECNOLOGY-NEUTRALITY

# MAPPING OUT the INTERFACE

*Restriction*

Contractual  
context

*(Art. 20 ECC)*

## II.- Concepts and definitions

*Electronic arbitral award*



From documents (scanned copies) to DATA

From (push) communication to ACCESS

From static to DYNAMIC data messages and documents

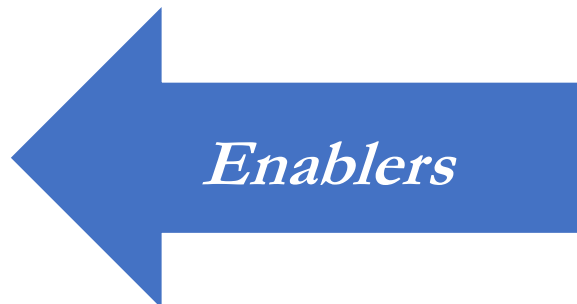
III.- Form and formalities

*Data messages*

*Writing*

*Signature*

*Original*



**Goals**

**Intended use**



### III.- Form and formalities

*Where the law requires information to be presented or retained in its original form, that requirement is met by a data message if:*

- (a) there exists a reliable assurance as to the integrity of the information from the time when it was first generated in its final form, as a data message or otherwise; and*
  - (a) the criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display; and*
  - (b) the standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances*
- (b) where it is required that information be presented, that information is capable of being displayed to the person to whom it is to be presented*

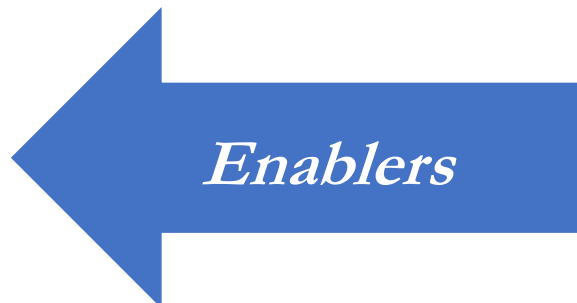
IV.- Legal recognition rules

*Data messages*

*Incorporation by reference*

*Original*

*“duly authenticated original award or duly certified copy”*



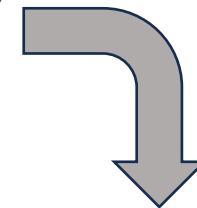
Goals

Intended use



*Original and copy*

- necessary?
- advisable?
- feasible?



*Digital seals, time stamps, trust services and alternative technology solutions (DLT)*

## TRACING PATHS AHEAD

**ECC**

From documents (scanned copies) to **DATA**

**MLIT**

**MLEC**

From (push) communication to **ACCESS**

**MLAC**

**MLES**

From static to **DYNAMIC** data messages  
and documents

**MLETR**

From human communications to **AUTOMATED**  
(machine-generated) actions and interactions



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