

SIDE EVENTS DURING 81st Session of WG II (3 – 7 February 2025, New York)

<p>4 February. Tuesday</p>	<p style="text-align: center;">Stocktaking of Developments in Dispute Resolution in the Digital Economy (8:00 a.m. – 9:30 a.m.)</p> <p>Organized by the Secretariat of the United Nations Commission on International Trade Law, supported by the New York International Arbitration Center, and hosted by Withersworldwide.</p> <p>State delegates are invited to attend a breakfast briefing and exchange of views on UNCITRAL's project Stocktaking of Developments in Dispute Resolution in the Digital Economy (DRDE). Following the exploratory work on the recognition and enforcement of electronic arbitral awards, which has led to the current mandate of the Working Group, the Secretariat is tasked to further implement the project to monitor and look into the other topics such as the use of artificial intelligence, online hearing protocols and platform-based dispute resolution. The Secretariat is pleased to update delegates on the implementation of the project and to seek inputs.</p> <p>Venue: Withers Bergman LLP, 430 Park Avenue, 10th Floor, New York, NY 10022-3505</p> <p style="text-align: center;">PLEASE NOTE: Attendance is necessarily limited because of space constraints. RSVPs will therefore be subject to confirmation prior to the event. Building security protocols for those attending will be provided separately.</p> <p style="text-align: center;">Breakfast will be served. Please RSVP no later than Friday, January 31, 2025</p> <p style="text-align: center;">Register here</p>
<p>6 February. Thursday</p>	<p style="text-align: center;">The Initiative for the Recognition of E-Awards through Digital Links Between Judicial Systems and Arbitral Institutions (1:30 p.m. – 2:30 p.m.)</p> <p>Organized by the Delegation of Saudi Arabia, supported by the Secretariat of the United Nations Commission on International Trade Law.</p> <p>State delegates and representatives of IGOs /NGOs are invited to attend a briefing and exchange of views on Saudi Arabia Delegation's suggested (Initiative for the Recognition of E-Awards through Digital Links Between Judicial Systems and Arbitral Institutions).</p> <p>Arbitration has become a critical tool for facilitating cross-border trade, fostering a favorable business environment, and attracting both domestic and foreign investments. Its importance is reflected in the success of the New York Convention, which has 172 member states, ensuring the recognition and enforcement of foreign arbitral awards globally.</p> <p>With advancements in technology and the growing use of electronic contracts and signatures, arbitration has evolved to include electronic arbitral awards ("e-awards"). This shift highlights the urgent need for international frameworks, like the New York Convention, to adapt and ensure broader recognition of e-awards and their electronic elements.</p> <p>In response, UNCITRAL's Working Group II (WG-II) was tasked in 2024 to address the recognition and enforcement of e-awards. Discussions during its session in Vienna emphasized the readiness of the international legal framework, supported by instruments such as the UNCITRAL Model Law on Electronic Signatures and the United Nations Convention on the Use of Electronic Communications. However, converting this legal consensus into actionable outcomes remains essential. Practical initiatives are needed to address challenges, bridge gaps, and achieve tangible results in aligning legal frameworks with modern technological advancements.</p> <p>Venue: The United Nations Headquarters, 405 East 42nd Street, NY, 10017, Conference Room: CR D</p>

**Conceptual Paper:
The Initiative for the Recognition of E-Awards
through Digital Links Between Judicial Systems and Arbitral Institutions
Submitted by the Delegation of
Saudi Arabia
V4.2
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Introduction

In light of the growing importance and impact of arbitration in facilitating cross-border trade and creating a favorable business environment both locally and internationally, as well as supporting and attracting foreign as well as domestic direct investments, arbitration has played a significant role in enhancing legal security and assuring parties of efficient access to justice. This significance is reflected in one of the most successful and widely adopted international conventions within the United Nations: the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the “New York Convention”), which currently includes 172 member states.

Amid significant technological advancements worldwide and the increasing trend towards automation and digitization in trade and business, accompanied by legal developments related to electronic contracts and electronic signatures, these advancements have contributed to enhancing efficiency, profitability, and expeditiousness. Consequently, arbitration has also evolved to include electronic arbitral awards (“e-awards”) containing electronic signatures and similar elements, underscoring the pressing need to expand the success of the New York Convention. This expansion aims to encompass broader international recognition by various judicial systems of e-awards and their accompanying electronic signatures.

This need prompted the United Nations Commission on International Trade Law (“UNCITRAL”) during its fifty-seventh session held in mid-2024, to mandate its Working Group II (“WG-II”) to address the recognition and enforcement of e-awards. This topic was examined during WG-II’s meeting in Vienna from 30 September 2024 to 4 October 2024. A key takeaway from these discussions was that the international legal and legislative framework is highly prepared, particularly given the UNCITRAL Model Law on Electronic Signatures (2001), the United Nations Convention on the Use of Electronic Communications in International Contracts (2005), as well as the New York Convention (1958) itself. Notably, there was a consensus on the topic's importance and its positive impact. Furthermore, there is a discernible need for a practical initiative to translate this consensus into actionable results, transferring this legal and legislative legacy into a practical reality, and addressing questions and concerns through a model that helps bridge gaps and achieve tangible impact.

Summary of the Initiative's Concept

- The initiative seeks to recognize electronic arbitral awards (e-awards) issued by accredited arbitral institutions and eliminate the mandatory requirement for their ratification through embassies, ministries of foreign affairs, or Apostille processes. This will be achieved by establishing secure digital communication channels directly between arbitral institutions and judicial authorities within member states. Member states joining the initiative must waive the diplomatic ratification requirement for e-awards issued by arbitral institutions headquartered in other member states, allowing e-award creditors to directly request recognition or enforcement of e-awards, provided they are in electronic format.
- The scope of the initiative is limited to the recognition of e-awards and the facilitation of direct communication between arbitral institutions and judicial authorities. It does not cover the details of post-recognition enforcement procedures, such as asset attachment, liquidation, or other execution measures, as these are considered separate executive steps outside the initiative’s framework.
- All channels of communication between eligible arbitral institutions and judicial authorities shall be facilitated through the initiative. This may include direct technical integration between the electronic systems of both parties without any human intervention (“system-to-system integration”) or by granting arbitral institutions user accounts

within the judicial system of the foreign country. Through such accounts, arbitral institutions can submit applications for the enforcement of arbitral e-awards. Additionally, as an initial stage, communication may also occur via an officially designated email between the arbitral institutions and the judicial authorities in the foreign country. The primary objective of this initiative is to eliminate the reliance on paper and lengthy authentication procedures, replacing them with an efficient and reliable electronic channel.

- The initiative would be proposed to UNCITRAL for adoption and partnership, as well as to several leading jurisdictions with advanced judicial systems and arbitral institutions, to serve as the “Founding Jurisdictions”.

Key Features of the Initiative

- For any state wishing to join the initiative, the following conditions must be met:
- The state must be a signatory to the New York Convention.
- The state's arbitration law must be based on the UNCITRAL Model Law on Arbitration.
- Arbitral institutions eligible to join this initiative must meet the following criteria:
- The arbitral institution’s headquarters must be located in a member state of the initiative.
- The arbitration rules of the arbitral institution must be based on UNCITRAL Arbitration Rules.
- The arbitral institution must have a good professional reputation and have been established for at least 10 years.
- The arbitral award must meet the following conditions:
- The arbitration proceedings must be fully administered by an eligible arbitral institution under its rules or the UNCITRAL Arbitration Rules to ensure judicial confidence that the award submitted for recognition and enforcement has been rendered by arbitrators vetted by the institution and in the presence of both parties. Consequently, this initiative does not permit the submission of *ad-hoc* arbitral awards through an arbitral institution for enforcement by the courts of another member state under the initiative.
- The arbitral award must be in electronic format.

Summary of the Current Situation

Compared to the Initiative's Model and Key Benefits

- Procedural Summary of the Current Practice (*in a Hypothetical Example*):

Assuming an arbitral award is issued under the rules of SCCA and administered by it, with enforcement sought on assets located in a foreign country, the process for submitting it to foreign judicial authorities for recognition and enforcement can be summarized as follows:

1. Issuance of the arbitral award.
2. Authentication of the arbitral award and related documents by the Saudi Ministry of Foreign Affairs.
3. Attestation of the Saudi Ministry of Foreign Affairs’ stamp by the foreign country’s embassy in Riyadh.
4. Dispatch of the hardcopy of the arbitral award and accompanying documents via a courier service to the foreign country.
5. Authentication of the foreign embassy's stamp by the Ministry of Foreign Affairs in the foreign country.
6. Submission of the arbitral award by the award creditor to the foreign judicial authorities for recognition and enforcement.

Envisioned Procedural Summary After the Initiative (*in a Hypothetical Example*):

In the same hypothetical scenario mentioned above, the steps could be reduced by approximately 80%, consolidated into a single streamlined process as follows:

Once the SCCA-administered e-award is issued under its rules, the award creditor can directly submit the award to the foreign judicial authorities for recognition and enforcement—without the need for ratification through diplomatic channels. The foreign judiciary can verify the validity of the award through the secure electronic channel established between SCCA and the judicial system of the foreign country.

Important Clarifications:

- Upon the issuance of the arbitral award, the arbitral institution will not automatically submit the arbitral award to the relevant judicial authority in the place of enforcement. This submission will only occur upon the request of the award creditor, meaning it is solely up to the creditor to decide whether to request the arbitral institution to send the award or not.
- This initiative does not interfere with the right of the award debtor to challenge the arbitral award before the competent court in accordance with the applicable procedural law.
- Once the award creditor requests the arbitral institution to submit the application for the enforcement of the arbitral award to the relevant court, the arbitral institution must immediately notify the award debtor of this request. This ensures that the award debtor can exercise its legal right to challenge the arbitral award or object to its enforcement before the competent enforcement court.
- Key Benefits and Practical Effects of the Initiative:
 - Enhancing arbitration efficiency and speed of enforcement, boosting confidence in arbitration, thereby increasing legal certainty and contract stability, which reduces legal risk costs for trade and investment and supports global economic growth.
 - Providing an additional incentive for businesses and investors to resort to arbitration for dispute resolution, thereby alleviating the burden on local courts and judicial systems and reducing the cases presented to local courts.
 - Enhancing and simplifying access to justice.
 - Achieving greater privacy and confidentiality for arbitral awards by minimizing the number of parties and entities required to review the arbitral awards for cross-border enforcement.
 - Promoting the legislative and judicial infrastructure of the member states of the initiative as arbitration-friendly jurisdictions, thereby increasing foreign investors' confidence, encouraging the selection of these states as coveted places for arbitrations, and promoting their courts and judicial systems.
 - Transitioning to a paperless society will have a significant positive environmental impact by preventing pollution caused by the disposal of millions of paper documents used in the issuance and execution of arbitral awards. Additionally, it will help reduce transportation costs associated with the authentication process of these awards and related documents.