

## Update on UNCITRAL Working Group II (Arbitration and Conciliation/Dispute Settlement)

The most recent Session of the Working Group was held in New York on 4 to 9 February 2019. While I did not attend the Session (see the account of student attendee, Tobias Hill, in Dr Davidson's report), as Chair of the UNCCA Expert Advisory Committee I will provide a substantive account of the Session, where the Working Group considered issues relating to expedited arbitration.

### **The purpose of considering expedited arbitration**

The goal of expedited arbitration is to improve the efficiency of arbitral proceedings by reducing their cost and duration. Several arbitral institutions have adopted features to expedite arbitral proceedings.

### **Issues relating to expedited arbitration**

In its preliminary discussion the Working Group considered the characteristics of expedited arbitration comprehensively, including:

- whether a sole arbitrator is sufficient and how arbitrators are to be appointed;
- how and when shorter procedural timelines (and permissible extensions) ought to be imposed;
- the tribunal's procedural discretion and the flexible use of case management conferences;
- a limited ability for parties to file additional claims, counterclaims and late submissions;
- restrictions on the evidence beyond that which is submitted with the notice of arbitration;
- party agreement or default rules on having no hearing, and limited or remote hearings;
- awards with summary reasons or without reasons, or final offer selection arbitration;
- criteria for applying expedited arbitration and resort to non-expedited arbitration;
- enforcement of awards resulting from expedited arbitrations; and
- the role of institutions and other appointing authorities in expedited arbitration.

In many of these areas the Working Group noted that time- and cost-effective dispute resolution ought not be pursued at the expense of flexibility and, perhaps more importantly, due process.

The Working Group decided that its work should take the form of a set of rules as an addition to the existing UNCITRAL Arbitration Rules, in the course of which guidance documents and model clauses may also be developed.

The Hon Justice Clyde Croft AM  
Chair, UNCCA Expert Advisory Committee to support UNCITRAL Working Group II