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# **ARTIFICIAL INTELLIGENCE IN INTERNATIONAL ARBITRATION: A CRITICAL ANALYSIS OF EMERGING LEGAL AND ETHICAL CHALLENGES**

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## **Abstract**

Artificial intelligence is increasingly used in international arbitration for legal research, document review, translation, evidence organisation and drafting. These applications may reduce the time and cost involved in complex disputes, but they also raise concerns about accuracy, confidentiality, bias, transparency and responsibility. The central question is whether the existing legal and ethical framework governing international arbitration is sufficient to address these risks. This paper examines the UNCITRAL Model Law on International Commercial Arbitration, the UNCITRAL Arbitration Rules and the New York Convention, alongside the 2024 Guidelines of the Silicon Valley Arbitration & Mediation Center (SVAMC), the 2025 Chartered Institute of Arbitrators (Ciab) Guideline and relevant judicial developments. It argues that existing principles—including equality of parties, due process, confidentiality and independent decision-making—can address some AI-related problems, but do not provide detailed or uniform standards for all situations. The paper recommends risk-based disclosure, independent verification, stronger protection of confidential information, procedural directions where appropriate and continued human control over arbitral decisions. AI should remain a support tool, not a substitute for the judgment and responsibility of legal professionals or arbitrators.

**Keywords:** Artificial Intelligence; International Arbitration; UNCITRAL; Confidentiality; Due Process; Human Oversight; AI Ethics.

## **1. Introduction**

International arbitration is widely used to resolve disputes arising from cross-border commercial relationships. Its appeal lies in party autonomy, procedural flexibility and the possibility of obtaining an award that can be recognised and enforced in different jurisdictions. The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards,

1958, remains central to this system.<sup>1</sup> Technology has changed the way arbitration is conducted.

Electronic filing, digital document management and remote hearings are now familiar features of arbitral practice. Artificial intelligence (AI) introduces a further change because it can analyse information and generate text, rather than merely store or transmit it.

Practitioners may use AI to search legal material, review large document sets, translate records, prepare summaries and draft preliminary submissions.

These uses can improve efficiency, particularly in document-heavy disputes. However, AI-generated material may be inaccurate, confidential information may be exposed to third-party systems, and the reasoning behind an output may be difficult to assess. The risks become more serious if AI-generated content is relied on without verification or if an arbitrator allows a tool to influence the decision without independent assessment.

The main question is not whether AI should be entirely accepted or prohibited. It is whether existing arbitration laws and ethical standards provide sufficient safeguards for its responsible use. This paper examines the legal framework, identifies the main risks, considers judicial and institutional developments, and proposes practical safeguards. Its central argument is that existing principles remain relevant but require more specific and consistent guidance for AI-related situations.

## **2. Research Problem, Objectives and Method**

The research problem is whether the existing legal and ethical rules governing international arbitration adequately address the risks created by AI, particularly inaccurate output, confidentiality breaches, AI-generated or altered evidence, bias, disclosure and accountability. <sup>1</sup>Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 330 U.N.T.S. 3.

The paper has three objectives: first, to identify the main uses of AI in arbitral proceedings; second, to assess how existing international instruments and institutional guidance apply to those uses; and third, to recommend safeguards that preserve efficiency without undermining procedural fairness or human responsibility.

The paper proceeds on the hypothesis that the existing framework is partly adequate but incomplete: general principles can address some harmful consequences of AI use, yet the absence of uniform, AI-specific standards leaves uncertainty in practice. The study adopts a doctrinal and critical method. It analyses international arbitration instruments, institutional guidelines and selected judicial decisions concerning AI-generated legal material. The cited

court decisions are not arbitration cases; they are considered only for the principles they illustrate regarding verification and professional responsibility.

### **3. AI in International Arbitration: Uses and Limits**

AI may be used at several stages of an arbitration. Legal research tools can help locate potentially relevant legal material, but the original judgment, statute or treaty must be checked. AI-assisted document review can classify large collections of emails, contracts and financial records, although a system may miss a document's legal significance or incorrectly categorise it.

Translation and transcription tools may reduce the time needed to process multilingual records and hearing material. Yet a mistranslated phrase or transcription error can change the meaning of evidence, particularly where technical or contractual terms are involved. Generative AI may also prepare chronologies, summaries and preliminary drafts. Such material should be treated as a starting point, not as a verified statement of law or fact.

AI can assist with administrative tasks for arbitrators, including organising documents or summarising material. Its use in deciding the merits is more sensitive. An arbitrator is appointed to exercise independent judgment under the parties' agreement and applicable law. The tribunal may use tools to assist its work, but responsibility for evaluating evidence, applying the law and giving reasons for the award must remain with the tribunal.

The distinction throughout is between assistance and substitution.

The more an AI tool affects evidence, legal reasoning or the outcome, the stronger the need for verification, transparency where appropriate and human oversight.

### **4. Existing Legal Framework**

#### **4.1 UNCITRAL Model Law. The UNCITRAL Model Law on**

International Commercial Arbitration, adopted in 1985 and amended in 2006, does not specifically regulate AI.<sup>2</sup> Article 18 requires equal treatment and a full opportunity for each party to present its case.

Article 19 gives parties procedural autonomy and, in the absence of agreement, gives the tribunal discretion over procedure. These provisions may support procedural directions concerning AI-generated material, verification or disclosure. Article 34 and the relevant national law may also become relevant if AI misuse results in a serious procedural failure. However, AI use does not automatically invalidate an award; the circumstances and applicable

legal tests remain decisive.

#### **4.2 UNCITRAL Arbitration Rules. Article 17(1) of the 2010**

UNCITRAL Arbitration Rules allows the tribunal to conduct proceedings as it considers appropriate, while requiring equal treatment and a reasonable opportunity to present a case.<sup>3</sup> This flexibility may allow a tribunal to address AI use through procedural orders. The Rules do not, however, set a comprehensive standard for AI disclosure, verification or the processing of confidential information.

#### **4.3 New York Convention. The 1958 New York Convention does**

not mention AI. Article V(1)(b) permits refusal of enforcement where a party was unable to present its case, while Article V(2)(b) addresses public policy. These provisions could be relevant in an exceptional case where AI use seriously affects procedural fairness<sup>2</sup> UNCITRAL Model Law on International Commercial Arbitration, U.N. Doc. A/40/17, annex I (1985), as amended in 2006, arts. 18, 19, 34.

<sup>3</sup>UNCITRAL Arbitration Rules (as revised in 2010), art. 17(1).

or the integrity of proceedings. They should not be treated as a general AI-regulation mechanism; application depends on the facts and the enforcing court's interpretation.

#### **4.4 Institutional guidance. The SVAMC published its Guidelines**

on the Use of Artificial Intelligence in Arbitration in 2024. They address AI use by parties, representatives, experts and arbitrators, including verification, confidentiality and the limits of delegation.

The Guidelines state that arbitrators should not delegate their decision-making function to an AI tool.<sup>4</sup> Ciarb's 2025 Guideline provides recommendations for parties and arbitrators and includes model documents that can help parties or tribunals manage AI use procedurally.<sup>5</sup>

These guidelines are more directly responsive to AI than the older legal instruments, but they are guidance documents rather than a single binding international regime. Their practical effect may depend on adoption by an institution, tribunal or parties. The existing framework therefore offers a legal foundation, while AI-specific guidance helps explain how its principles can operate in new situations.

## 5. Principal Legal and Ethical Challenges

### 5.1 Accuracy and fabricated authorities. Generative AI can

produce confident but incorrect statements, including non-existent cases or inaccurate quotations. Reliance on such material may mislead the tribunal, damage a party's credibility and increase costs.

A legal professional must verify citations and propositions against authoritative sources. The use of AI does not transfer this duty to the software.

### 5.2 Confidentiality and data protection. Arbitration records may

contain trade secrets, financial information, business plans and personal data. Uploading such material to an AI system without understanding its retention, access and security practices may conflict with confidentiality obligations. Before using a tool, 4Silicon Valley Arbitration & Mediation Center, Guidelines on the Use of Artificial Intelligence in Arbitration (1st ed. 2024), Guideline 6.

5Chartered Institute of Arbitrators, Guideline on the Use of AI in Arbitration (2025).

participants should assess its terms and data handling, avoid entering sensitive information where protection cannot be assured, and consider anonymisation or approved secure systems.

**5.3 AI-generated or altered evidence. AI can create or modify text,** images, audio and video. This may make it harder to determine whether material is authentic. The opposite risk also exists: genuine evidence might be challenged merely because alteration is technically possible. The tribunal should assess authenticity, relevance and reliability on the evidence available; the mere possibility of AI manipulation proves neither genuineness nor falsity.

### 5.4 Bias and opacity. An AI system may reflect limitations or biases

in its training data or design. If its output is used to classify evidence or identify patterns, relevant information may be overlooked or given undue weight. Some systems also provide limited explanations of how they reach a result. Users should therefore avoid treating outputs as neutral or conclusive and should examine the underlying material independently.

### 5.5 Disclosure and transparency. Not every use of AI raises the

same concern. Spell-checking or formatting is different from generating substantial parts of a submission, analysing evidence or materially assisting an award. A blanket disclosure rule for every minor use may be disproportionate, but significant use may need to be disclosed where

it affects the substance of a party's case or the tribunal's process. The appropriate approach should be proportionate to the purpose and impact of the tool.

#### **5.6 Human oversight and accountability. AI cannot assume the**

professional or legal responsibility of the person using it. Counsel remain responsible for submissions; parties remain responsible for material they present; and arbitrators remain responsible for their decisions. Human oversight must be meaningful, not a simple acceptance of machine-generated output. The person reviewing the output should have enough knowledge and access to the source material to identify errors.

#### **5.7 Equality and due process. Differences in access to technology**

do not automatically amount to procedural inequality. The concern arises when AI use affects the other party's practical ability to understand, test or answer the case. For example, an unexplained mass of AI-generated material may make a response more difficult.

A tribunal should use its procedural powers to preserve a fair opportunity for both sides to address material that may affect the outcome.

These concerns overlap. An inaccurate output can become a due- process issue; uploading confidential evidence can create a confidentiality breach; and undisclosed use may undermine trust.

The seriousness of the risk depends on the tool, the information involved and the effect of its use on the proceedings.

### **6. Judicial and Institutional Developments**

Directly reported decisions dealing with AI use in international arbitration remain limited. It is therefore important not to describe ordinary court cases as arbitration decisions. They are nevertheless instructive on the continuing responsibility of legal professionals to verify AI-generated legal material.

In *Mata v. Avianca, Inc.* (2023), lawyers submitted non-existent judicial decisions and quotations generated using ChatGPT.<sup>6</sup> The United States District Court for the Southern District of New York imposed sanctions after finding that the authorities had not been properly verified. The decision did not establish that AI use itself is improper; it demonstrated that lawyers remain responsible for the accuracy of material filed with a court.

In *Park v. Kim* (2024), the United States Court of Appeals for the Second Circuit addressed a brief relying on non-existent AI-generated authority and referred the attorney for further

disciplinary consideration.<sup>7</sup> In *Ayinde v. London Borough of Haringey* (2025), a Divisional Court of the English High Court also stressed the need to <sup>6</sup>*Mata v. Avianca, Inc.*, No. 22-CV-1461 (PKC), 2023 WL 4114965 (S.D.N.Y. June 22, 2023).

<sup>7</sup>*Park v. Kim*, 91 F.4th 610 (2d Cir. 2024). check AI-generated legal research against reliable sources.<sup>8</sup> Neither case concerned international arbitration, but both support the principle that using AI does not excuse a failure to verify legal material.

The SVAMC Guidelines (2024) and Ciarb Guideline (2025) address arbitration more directly. They recognise that AI can be useful while emphasising confidentiality, verification and human responsibility.

Ciarb's model agreement and procedural order offer practical ways to address AI use in a particular case. UNCITRAL's February 2026 colloquium on AI in dispute resolution, including its possible effect on arbitration and enforcement, further indicates that the issue is receiving international attention.<sup>9</sup> This work should be described as developing discussion, not as a completed international regulatory framework.

## 7. Critical Assessment of the Existing Framework

The existing framework has important strengths. Equality, the right to present a case, procedural flexibility, confidentiality and independent decision-making remain relevant regardless of the technology used. A tribunal can respond to many problems through procedural directions, and the enforcement framework may address serious failures of due process. The principle that human participants remain responsible also fits established professional duties. The main weakness is lack of specificity and consistency. The principal international instruments do not expressly address AI hallucinations, disclosure of substantial AI use, AI-altered evidence, the handling of data entered into AI systems or minimum standards for human review. Their general language allows flexibility, but it may also leave parties uncertain about what is permitted and what must be disclosed.

<sup>8</sup>R. (on the application of *Ayinde*) v. London Borough of Haringey, [2025] EWHC 1383 (Admin) (Div. Ct.) (Eng.).

<sup>9</sup>U.N. Commission on International Trade Law, Colloquium on the Use of Artificial Intelligence (AI) in Dispute Resolution and Remote Hearings in Arbitration and Mediation (Feb. 16–17, 2026), held in connection with the eighty-third session of UNCITRAL Working Group II.

A second difficulty is the status and uneven adoption of institutional guidance. SVAMC and Ciarb provide useful standards, but guidance is not equivalent to a uniform treaty obligation or

national legislation. Different tribunals and institutions may take different approaches. Over-regulation could also be counterproductive if every routine use requires disclosure or permission, adding expense without improving fairness.

The framework is therefore partly adequate, rather than wholly adequate or wholly ineffective. Existing principles can address consequences when AI use causes a recognised procedural or professional problem. They are less effective as advance guidance on ordinary, high-risk and prohibited uses. A risk-based approach is more suitable than either unrestricted use or a complete ban.

## **8. Recommendations and Safeguards**

First, arbitral institutions and professional bodies should develop compatible minimum standards. These should distinguish low-risk administrative uses from uses that may affect evidence, legal submissions or the tribunal's reasoning. The standards should be reviewed regularly as AI tools change.

Second, AI-generated legal and factual material should be independently verified before it is relied upon. Citations, quotations, statutory provisions and factual assertions should be checked against original or authoritative sources. Parties and counsel should remain accountable for the material they submit.

Third, confidentiality should be assessed before arbitration material is entered into an AI tool. Participants should consider data retention, access, security and the terms of the service. Where adequate protection cannot be established, confidential information should not be uploaded. Tribunals may address permitted tools and categories of information through procedural orders where necessary.

Fourth, disclosure should be proportionate. Routine formatting or language correction ordinarily presents a different level of risk from AI-generated analysis of evidence or substantive drafting.

Disclosure may be appropriate where AI use materially affects the case, where the tribunal requests it, or where the opposing party needs the information to respond fairly. The focus should be on the nature and effect of the use, not merely on whether AI was used at all.

Fifth, arbitrators must retain control over the assessment of evidence and the reasoning and outcome of the award. AI may assist with administrative work or research, but it should not decide the merits or replace independent judgment. Any material generated by AI that influences the tribunal's consideration should be checked, and parties should be given an opportunity to address material issues where procedural fairness requires it.

Finally, tribunals should use case-specific procedural orders where a genuine issue arises. Such orders can address disclosure, verification, confidentiality and AI-generated evidence without imposing an identical burden in every arbitration. Continued work by UNCITRAL, arbitral institutions and professional bodies can help reduce inconsistent practice while preserving procedural flexibility.

## 9. Conclusion

AI is changing the practical conduct of international arbitration. It can assist with research, document review, translation, evidence organisation and drafting, especially in complex disputes involving large records. These benefits are real, but so are the risks of inaccurate output, confidentiality breaches, bias, opaque reasoning and unfairness.

The UNCITRAL Model Law, UNCITRAL Arbitration Rules and New York Convention do not specifically regulate modern AI tools.

Nevertheless, their principles of equality, due process, procedural flexibility and enforcement remain relevant when AI use affects an arbitration. The SVAMC Guidelines and Ciarb Guideline provide more direct guidance, while recent court decisions illustrate the continuing duty to verify AI-generated legal material. These developments have not yet produced one comprehensive and uniformly binding framework.

The study concludes that the existing framework is partly adequate but incomplete. It can respond to some harms after they arise, but clearer standards are needed on verification, confidentiality, disclosure, AI-related evidence and the limits of AI use by arbitrators. A risk-based approach, supported by procedural directions and regular institutional review, is preferable to a complete prohibition. AI should assist the arbitral process without replacing the independent judgment and accountability of the people entrusted with it. Maintaining that distinction is essential to preserving confidence in international arbitration.

## Selected References

1. Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 330 U.N.T.S. 3.
2. UNCITRAL Model Law on International Commercial Arbitration, U.N. Doc. A/40/17, annex I (1985), as amended in 2006.
3. UNCITRAL Arbitration Rules (as revised in 2010, with art. 1(4) as adopted in 2013 and the Expedited Arbitration Rules of 2021).

4. Silicon Valley Arbitration & Mediation Center, Guidelines on the Use of Artificial Intelligence in Arbitration (1st ed. 2024).
5. Chartered Institute of Arbitrators, Guideline on the Use of AI in Arbitration (2025).
6. U.N. Commission on International Trade Law, Colloquium on the Use of Artificial Intelligence (AI) in Dispute Resolution and Remote Hearings in Arbitration and Mediation (Feb. 16–17, 2026).
7. *Mata v. Avianca, Inc.*, No. 22-CV-1461 (PKC), 2023 WL 4114965 (S.D.N.Y. June 22, 2023).
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