



General Assembly

Distr.: Limited
25 July 2012

Original: English

**United Nations Commission
on International Trade Law
Working Group IV (Electronic Commerce)
Forty-sixth session
Vienna, 29 October-2 November 2012**

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Legal issues relating to the use of electronic transferable records.
5. Technical assistance and coordination.
6. Other business.
7. 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 (2016), Argentina (2016), Armenia (2013), Australia (2016), Austria (2016), Bahrain (2013), Benin (2013), Bolivia (Plurinational State of) (2013), Botswana (2016), Brazil (2016), Bulgaria (2013), Cameroon (2013), Canada (2013), Chile (2013), China (2013), Colombia (2016), Croatia (2016), Czech Republic (2013), Egypt (2013), El Salvador (2013), Fiji (2016), France (2013), Gabon (2016), Georgia (2015), Germany (2013), Greece (2013), Honduras (2013), India (2016), Iran (Islamic Republic of) (2016), Israel (2016), Italy (2016), Japan (2013), Jordan (2016), Kenya (2016), Latvia (2013), Malaysia (2013), Malta (2013), Mauritius (2016), Mexico (2013), Morocco (2013), Namibia (2013), Nigeria (2016), Norway (2013), Pakistan (2016), Paraguay (2016), Philippines (2016), Republic of Korea (2013), Russian Federation (2013), Senegal (2013), Singapore (2013), South Africa (2013), Spain (2016), Sri Lanka (2013),



Thailand (2016), Turkey (2016), Uganda (2016), Ukraine (2014), United Kingdom of Great Britain and Northern Ireland (2013), United States of America (2016) and Venezuela (Bolivarian Republic of) (2016).

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 forty-sixth session of the Working Group will be held at the Vienna International Centre, from 29 October to 2 November 2012. Meeting hours will be from 9.30 a.m. to 12.30 p.m. and from 2 to 5 p.m., except on Monday, 29 October 2012, when the session will be opened at 10 a.m.

4. The Working Group may wish to note that, consistent with decisions taken by the Commission at its thirty-fourth session,¹ the Working Group is expected to hold substantive deliberations during the first nine half-day meetings (that is, from Monday to Friday morning), with a draft report being prepared by the Secretariat for adoption at the tenth and last meeting of the Working Group (on Friday afternoon).

Item 2. Election of officers

5. In accordance with its practice at previous sessions, the Working Group may wish to elect a Chairman and a Rapporteur.

Item 4. Legal issues relating to the use of electronic transferable records

(a) Background information

6. At its forty-second session, in 2009, the Commission requested the Secretariat to prepare a study on electronic transferable records in the light of proposals received at that session (A/CN.9/681 and Add.1, and A/CN.9/682).²

7. At its forty-third session, in 2010, the Commission had before it additional information on the use of electronic communications for the transfer of rights in goods, with particular regard to the use of registries for the creation and transfer of rights (A/CN.9/692, paras. 12-47). At that session, the Commission requested the Secretariat to convene a colloquium on relevant topics, namely, electronic transferable records, identity management, electronic commerce conducted with mobile devices and electronic single window facilities, and to report on the discussions held at that colloquium.³

¹ *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), para. 381.

² *Ibid.*, *Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 343.

³ *Ibid.*, *Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 250.

8. At its forty-fourth session, in 2011, the Commission had before it a note by the Secretariat (A/CN.9/728 and Add.1) summarizing the discussions at the colloquium on electronic commerce (New York, 14-16 February 2011).⁴ After discussion, the Commission mandated the Working Group to undertake work in the field of electronic transferable records.⁵ It was recalled that such work would be beneficial not only for the generic promotion of electronic communications in international trade, but also to address some specific issues such as assisting in the implementation of the Rotterdam Rules.⁶

9. In addition, the Commission agreed that work regarding electronic transferable records might include certain aspects of other topics such as identity management, use of mobile devices in electronic commerce and electronic single window facilities.⁷ However, as to the extension of the mandate of the Working Group to such topics as discrete subjects (and not incidental to electronic transferable records), the Commission agreed to discuss it at a future session.⁸

10. At its forty-fifth session (Vienna, 10-14 October 2011), the Working Group began its work on various legal issues relating to the use of electronic transferable records, including possible methodology for future work by the Working Group (A/CN.9/737, paras. 14-88). It also considered the work of other international organizations on this subject (A/CN.9/737, paras. 89-91).

11. At its forty-fifth session, in 2012, the Commission expressed its appreciation to the Working Group for the progress made and commended the Secretariat for its work.⁹ There was general support for the Working Group to continue its work on electronic transferable records and the need for an international regime to facilitate the cross-border use of electronic transferable records was emphasized.¹⁰ In that context, the desirability of identifying and focusing on specific types of or specific issues related to electronic transferable records was mentioned.¹¹ After discussion, the Commission reaffirmed the mandate of the Working Group relating to electronic transferable records.¹²

(b) Documentation

12. The Working Group will have before it a note by the Secretariat regarding legal issues relating to the use of electronic transferable records (A/CN.9/WG.IV/WP.118 and Addenda). In addition, a paper setting out the current practices on electronic transferable records and perceived future needs of their use, which was submitted by the Governments of the United States and Spain, will be transmitted to the Working Group in a note by the Secretariat (A/CN.9/WG.IV/WP.119).

⁴ Information about the colloquium is available at the date of this document from www.uncitral.org/uncitral/en/commission/colloquia/electronic-commerce-2010.html.

⁵ *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17 (A/66/17)*, para. 238.

⁶ *Ibid.*, para. 235.

⁷ *Ibid.*

⁸ *Ibid.*, para. 239.

⁹ *Ibid.*, *Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 81.

¹⁰ *Ibid.*, para. 82.

¹¹ *Ibid.*

¹² *Ibid.*, para. 89.

13. As the Commission noted that work regarding electronic transferable records might include certain aspects of identity management (see para. 9 above), the Working Group will have before it a paper submitted by the American Bar Association providing an overview of identity management, its role in electronic commerce and relevant legal issues (A/CN.9/WG.IV/WP.120).¹³

14. A limited number of the following background documents will be made available at the session:

- UNCITRAL Model Law on Electronic Commerce with Guide to Enactment;
- UNCITRAL Model Law on Electronic Signatures with Guide to Enactment;
- United Nations Convention on the Use of Electronic Communications in International Contracts;
- Promoting confidence in electronic commerce: legal issues on international use of electronic authentication and signature methods;
- Present and possible future work on electronic commerce (A/CN.9/692);
- Present and possible future work on electronic commerce (A/CN.9/728 and Add.1);
- Report of Working Group IV (Electronic Commerce) on the work of its forty-fifth session (A/CN.9/737).

15. UNCITRAL documents are posted on the UNCITRAL website (www.uncitral.org) upon their issuance in all official languages of the United Nations. Delegates may wish to check the availability of the documents by accessing the Working Group's page in the "Working Groups" section of the UNCITRAL website.

Item 5. Technical assistance and coordination

16. The Commission, at its forty-fifth session, in 2012, took note of other developments in the field of electronic commerce. It first welcomed resolution 68/3 (Enabling paperless trade and the cross-border recognition of electronic data and documents for inclusive and sustainable intraregional trade facilitation) adopted by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) at its sixty-eighth session (Bangkok, 17-23 May 2012).¹⁴ The Commission requested the Secretariat to work closely with ESCAP, including through the UNCITRAL Regional Centre for Asia and the Pacific.¹⁵

17. With respect to legal issues relating to electronic single windows facilities, the Commission welcomed the "Electronic Single Window Legal Issues: A Capacity-Building Guide" prepared jointly by the United Nations Network of Experts for Paperless Trade in Asia and the Pacific (UNNExT), ESCAP and the United Nations

¹³ Ibid., para. 88.

¹⁴ E/2012/39-E/ESCAP/68/24.

¹⁵ *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 84.

Economic Commission for Europe (UNECE), with substantive contribution from the UNCITRAL secretariat.¹⁶

18. The Commission was also informed about recent developments regarding the cooperation between UNCITRAL and the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), with particular regard to UN/CEFACT recommendation No. 37 on Signed Digital Document Interoperability (SDDIR).¹⁷ In that regard, the Commission also took note of the decision by UN/CEFACT at its eighteenth session (Geneva, 15-17 February 2012) to initiate work to establish a framework for the ongoing governance of digital signature interoperability in coordination with UNCITRAL, the International Organization for Standardization (ISO) and other relevant organizations.¹⁸ The Commission requested the Secretariat to take appropriate steps to cooperate with UN/CEFACT, possibly involving the Working Group.¹⁹

19. The Working Group may wish to take note of the above-mentioned activities to ensure coordination of efforts with relevant organizations. In that context, the Working Group will hear an oral report by the Secretariat on the progress made at the twentieth UN/CEFACT forum (Vienna, 17-21 September 2012) to discuss the framework for the ongoing governance of digital signature interoperability (see para. 18 above).

20. In addition, the Working Group will hear an oral report of technical assistance activities undertaken by the Secretariat, including the promotion of UNCITRAL texts on electronic commerce.

Item 6. Other business

21. The Working Group may wish to note that its forty-seventh session is scheduled to be held in New York, from 13 to 17 May 2013.

Item 7. Adoption of the report

22. The Working Group may wish to adopt, at the close of its session, on Friday, 2 November 2012, a report for submission to the forty-sixth session of the Commission planned to be held in Vienna, from 8 to 26 July 2013. The main conclusions reached by the Working Group at its ninth meeting (on Friday morning) will be summarily read out for the record at the tenth meeting (on Friday afternoon) and subsequently incorporated into the report.

¹⁶ Ibid., para. 85.

¹⁷ Document ECE/TRADE/C/CEFACT/2010/14/Rev.1, available in English, French and Russian from www.unece.org/index.php?id=28948.

¹⁸ Report of the Centre for Trade Facilitation and Electronic Business on its eighteenth session, ECE/TRADE/C/CEFACT/2012/12, para. 30, available in English, French and Russian from www.unece.org/index.php?id=28948.

¹⁹ *Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 87.