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DRAFT LEGAL GUIDE ON ELECTRONIC FUNDS TRANSFER

Report of the Secretary-General

1. The Commission, at its fifteenth session in 1982, decided that the Secretariat should begin the preparation of a legal guide on electronic funds transfers in co-operation with the UNCITRAL Study Group on International Payments. 1/ It was decided that the guide should be oriented towards providing guidance for legislators or lawyers preparing the rules governing particular systems. Several chapters of the draft legal guide were submitted to the Commission at its seventeenth session in 1984 for general observations. 2/ The Secretariat informed the Commission that two additional draft chapters would be submitted to the Commission at its eighteenth session.

2. There was general agreement in the Commission that the draft chapters before the Commission already constituted an excellent beginning to the work in this field and laid the basis for the development of an international common understanding of the legal issues involved. It was noted that it would be premature to attempt to formulate uniform legal rules governing electronic funds transfers before an international common understanding on the subject had been reached. It was noted, however, that the establishment of such a common understanding through the legal guide might make it possible in the future to prepare concrete uniform rules in respect of certain aspects of electronic funds transfers. 3/ The Commission therefore requested the

1/ Report of the United Nations Commission on International Trade Law on the work of its fifteenth session, Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 17 (A/37/17), para. 73.

2/ The draft chapters are to be found in documents A/CN.9/250/Add.1-4.

3/ Report of the United Nations Commission on International Trade Law on the work of its seventeenth session, Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 17 (A/39/17), para. 92.

Secretariat to complete the remaining draft chapters and decided that at its eighteenth session it would consider the course of action to be taken on this matter. 4/

3. Annexed to this report in addenda 1 and 2 are the remaining draft chapters of the legal guide, i.e. a draft chapter on finality of funds transfers and a draft chapter on legal issues raised by electronic funds transfers. The Commission may wish to consider sending the full set of draft chapters to Governments and interested international organizations for comment, and requesting the Secretariat, in co-operation with the UNCITRAL Study Group on International Payments, to revise the draft chapters in the light of the comments received for submission to the nineteenth session of the Commission in 1986 for adoption.

4/ Ibid., para. 93.