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Draft Convention on the Use of Electronic Communications in International Contracts

Note by the Secretariat

1. Working Group IV (Electronic Commerce) began its deliberations on electronic contracting at its thirty-ninth session (New York, 11-15 March 2002). Having completed its work at its forty-fourth session (Vienna, 11- 22 October 2004), the Working Group requested the Secretariat to circulate the revised version of the draft convention to Governments for their comments, with a view to consideration and adoption of the draft convention by the Commission at its thirty-eighth session, in 2005.
2. Pursuant to consultations with the Chairman of the thirty-seventh session of the Commission and the Chairman of the forty-fourth session of Working Group IV (Electronic Commerce), the forty-fifth session of Working Group IV (Electronic Commerce), which had been scheduled to be held in New York from 11 to 15 April 2005, has been cancelled. The thirty-eighth session of the Commission, which was originally scheduled to be held in Vienna from 4 to 22 July 2005 has been re-scheduled to be held in Vienna from 4 to 15 July 2005. It is proposed that the draft convention be considered and finalized by the Commission between 4 and 11 July 2005.
3. The Secretariat would appreciate it if Governments would submit concise comments on individual provisions of the draft convention. The Secretariat reserves the right to summarize the comments received from Governments, as may be required to comply with the guidelines on the length of documentation established by the General Assembly.
4. Annex I to this note contains the newly revised version of the draft convention, which includes the articles adopted by the Working Group at its forty-fourth session, as well as the draft preamble and final provisions on which the Working Group only held a general exchange of views at that time (see A/CN.9/571,



para. 32). Annex II contains a table of references to the deliberations by the Working Group.

5. Addendum 1 to this note, which will be issued separately, contains a summary of the deliberations of the Working Group as well as short notes intended to facilitate the consideration of the draft convention by Governments and the Commission.

Annex I

Draft convention on the use of electronic communications in international contracts

The States Parties to this Convention,¹

Reaffirming their belief that international trade on the basis of equality and mutual benefit is an important element in promoting friendly relations among States,

Noting that the increased use of electronic communications improves the efficiency of commercial activities, enhances trade connections and allows new access opportunities for previously remote parties and markets, thus playing a fundamental role in promoting trade and economic development, both domestically and internationally,

Considering that problems created by uncertainty as to the legal value of the use of electronic communications in international contracts constitute an obstacle to international trade,

Convinced that the adoption of uniform rules to remove obstacles to the use of electronic communications in international contracts, including obstacles that might result from the operation of existing international trade law instruments, would enhance legal certainty and commercial predictability for international contracts and may help States gain access to modern trade routes,

Being of the opinion that uniform rules should respect the freedom of parties to choose appropriate media and technologies, [taking account of their interchangeability,] to the extent that the means chosen by the parties comply with the purpose of the relevant rules of law,

Desiring to provide a common solution to remove legal obstacles to the use of electronic communications in a manner acceptable to States with different legal, social and economic systems,

Have agreed as follows:

¹ The draft preamble was already contained in the last version of the draft convention that was considered by the Working Group (A/CN.9/WG.IV/WP.110). At its 44th session, the Working Group held an initial exchange of view on the draft preamble, but, for lack of time, did not formally approve it.

CHAPTER I. SPHERE OF APPLICATION

Article 1. Scope of application

1. This Convention applies to the use of electronic communications in connection with the formation or performance of a contract [or agreement]² between parties whose places of business are in different States.

2. The fact that the parties have their places of business in different States is to be disregarded whenever this fact does not appear either from the contract or from any dealings between the parties or from information disclosed by the parties at any time before or at the conclusion of the contract.

3. Neither the nationality of the parties nor the civil or commercial character of the parties or of the contract is to be taken into consideration in determining the application of this Convention.

Article 2. Exclusions

1. This Convention does not apply to electronic communications relating to any of the following:

(a) Contracts concluded for personal, family or household purposes;

(b) (i) Transactions on a regulated exchange; (ii) foreign exchange transactions; (iii) inter-bank payment systems, inter-bank payment agreements or clearance and settlement systems relating to securities or other financial assets or instruments; (iv) the transfer of security rights in, sale, loan or holding of or agreement to repurchase securities or other financial assets or instruments held with an intermediary.

2. This Convention does not apply to bills of exchange, promissory notes, consignment notes, bills of lading, warehouse receipts or any transferable document or instrument that entitles the bearer or beneficiary to claim the delivery of goods or the payment of a sum of money.

Article 3. Party autonomy

The parties may exclude the application of this Convention or derogate from or vary the effect of any of its provisions.

Chapter II. General provisions

Article 4. Definitions

For the purposes of this Convention:

(a) “Communication” means any statement, declaration, demand, notice or request, including an offer and the acceptance of an offer, that the parties are

² The Secretariat suggests that the words “or agreement” should be added to align the language of the draft article with the language used in draft article 19. The Commission may wish to consider whether these words should be added in draft article 1 or whether any explanatory notes or commentary on the draft convention should explain the Commission’s understanding of the word “contract” in the draft convention.

required to make or choose to make in connection with the formation or performance of a contract;

(b) “Electronic communication” means any communication that the parties make by means of data messages;

(c) “Data message” means information generated, sent, received or stored by electronic, magnetic, optical or similar means including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex or telecopy;

(d) “Originator” of an electronic communication means a party by whom, or on whose behalf, the electronic communication has been sent or generated prior to storage, if any, but it does not include a party acting as an intermediary with respect to that electronic communication;

(e) “Addressee” of an electronic communication means a party who is intended by the originator to receive the electronic communication, but does not include a party acting as an intermediary with respect to that electronic communication;

(f) “Information system” means a system for generating, sending, receiving, storing or otherwise processing data messages;

(g) “Automated message system” means a computer program or an electronic or other automated means used to initiate an action or respond to data messages or performances in whole or in part, without review or intervention by a person each time an action is initiated or a response is generated by the system;

(h) “Place of business” means any place where a party maintains a non-transitory establishment to pursue an economic activity other than the temporary provision of goods or services out of a specific location.

Article 5. Interpretation

1. In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

Article 6. Location of the parties

1. For the purposes of this Convention, a party’s place of business is presumed to be the location indicated by that party, unless another party demonstrates that the party making the indication does not have a place of business at that location.

2. If a party has not indicated a place of business and has more than one place of business, then [, subject to paragraph 1 of this article,]³ the place of

³ The Commission may wish to consider whether the reference to paragraph 1, which the Secretariat has placed within square brackets, is still needed in the current formulation of draft

business for the purposes of this Convention is that which has the closest relationship to the relevant contract, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract.

3. If a natural person does not have a place of business, reference is to be made to the person's habitual residence.

4. A location is not a place of business merely because that is: (a) where equipment and technology supporting an information system used by a party in connection with the formation of a contract are located; or (b) where the information system may be accessed by other parties.

5. The sole fact that a party makes use of a domain name or electronic mail address connected to a specific country does not create a presumption that its place of business is located in that country.

Article 7. Information requirements

Nothing in this Convention affects the application of any rule of law that may require the parties to disclose their identities, places of business or other information, or relieves a party from the legal consequences of making inaccurate or false statements in that regard.

CHAPTER III. USE OF ELECTRONIC COMMUNICATIONS IN INTERNATIONAL CONTRACTS

Article 8. Legal recognition of electronic communications

1. A communication or a contract shall not be denied validity or enforceability on the sole ground that it is in the form of an electronic communication.⁴

2. Nothing in this Convention requires a party to use or accept electronic communications, but a party's agreement to do so may be inferred from the party's conduct.

Article 9. Form requirements

1. Nothing in this Convention requires a communication or a contract to be made or evidenced in any particular form.

2. Where the law requires that a communication or a contract should be in writing, or provides consequences for the absence of a writing, that requirement is met by an electronic communication if the information contained therein is accessible so as to be usable for subsequent reference.

paragraph 2, which, unlike earlier versions, only applies when a party has not indicated a place of business under draft paragraph 1.

⁴ The Commission may wish to consider whether, for purposes of clarity, the words "or result from the exchange of electronic communications" should be added at the end of this paragraph.

3. Where the law requires that a communication or a contract should be signed by a party, or provides consequences for the absence of a signature, that requirement is met in relation to an electronic communication if:

(a) A method is used to identify the party and to indicate that party's approval of the information contained in the electronic communication; and

(b) That method is as reliable as appropriate to the purpose for which the electronic communication was generated or communicated, in the light of all the circumstances, including any relevant agreement.

4. Where the law requires that a communication or a contract should be presented or retained in its original form, or provides consequences for the absence of an original, that requirement is met in relation to an electronic communication if:

(a) There exists a reliable assurance as to the integrity of the information it contains from the time when it was first generated in its final form, as an electronic communication or otherwise; and

(b) Where it is required that the information it contains be presented, that information is capable of being displayed to the person to whom it is to be presented.

5. For the purposes of paragraph 4 (a):

(a) The criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display; and

(b) The standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances.

[6. Paragraphs 4 and 5 do not apply where a rule of law or the agreement between the parties requires a party to present certain original documents for the purpose of claiming payment under a letter of credit, a bank guarantee or a similar instrument.]⁵

*Article 10. Time and place of dispatch and receipt
of electronic communications*

1. The time of dispatch of an electronic communication is the time when it leaves an information system under the control of the originator or of the party who sent it on behalf of the originator or, if the electronic communication has not left an information system under the control of the originator or of the party who sent it on behalf of the originator, the time when the electronic communication is received.

2. The time of receipt of an electronic communication is the time when it becomes capable of being retrieved by the addressee at an electronic address

⁵ This paragraph appears within square brackets because the Working Group was not able, for lack of time, to complete its review at its forty-fourth session. As an alternative to the draft paragraph, it was proposed that the draft convention could give States the possibility to exclude the application of paragraphs 4 and 5 of draft article 9 by declarations made under draft article 18 (A/CN.9/571, para. 138).

designated by the addressee. The time of receipt of an electronic communication at another electronic address of the addressee is the time when it becomes capable of being retrieved by the addressee at that address and the addressee becomes aware that the electronic communication has been sent to that address. An electronic communication is presumed to be capable of being retrieved by the addressee when it reaches the addressee's electronic address.

3. An electronic communication is deemed to be dispatched at the place where the originator has its place of business and is deemed to be received at the place where the addressee has its place of business, as determined in accordance with article 6.

4. Paragraph 2 of this article applies notwithstanding that the place where the information system supporting an electronic address is located may be different from the place where the electronic communication is deemed to be received under paragraph 3 of this article.

Article 11. Invitations to make offers

A proposal to conclude a contract made through one or more electronic communications which is not addressed to one or more specific parties, but is generally accessible to parties making use of information systems, including proposals that make use of interactive applications for the placement of orders through such information systems, is to be considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound in case of acceptance.

Article 12. Use of automated message systems for contract formation

A contract formed by the interaction of an automated message system and a natural person, or by the interaction of automated message systems, shall not be denied validity or enforceability on the sole ground that no natural person reviewed each of the individual actions carried out by the systems or the resulting contract.

Article 13. Availability of contract terms

Nothing in this Convention affects the application of any rule of law that may require a party that negotiates some or all of the terms of a contract through the exchange of electronic communications to make available to the other party those electronic communications that contain the contractual terms in a particular manner, or relieves a party from the legal consequences of its failure to do so.

Article 14. Error in electronic communications

1. Where a natural person makes an input error in an electronic communication exchanged with the automated message system of another party and the automated message system does not provide the person with an opportunity to correct the error, that person, or the party on whose behalf that person was acting, has the right to withdraw the electronic communication in which the input error was made if:

(a) The person, or the party on whose behalf that person was acting, notifies the other party of the error as soon as possible after having learned of the error and indicates that he or she made an error in the electronic communication;

(b) The person, or the party on whose behalf that person was acting, takes reasonable steps, including steps that conform to the other party's instructions, to return the goods or services received, if any, as a result of the error or, if instructed to do so, to destroy the goods or services; and

(c) The person, or the party on whose behalf that person was acting, has not used or received any material benefit or value from the goods or services, if any, received from the other party.

2. Nothing in this article affects the application of any rule of law that may govern the consequences of any errors made during the formation or performance of the type of contract in question other than an input error that occurs in the circumstances referred to in paragraph 1.

CHAPTER IV. FINAL PROVISIONS⁶

Article 15. Depositary

The Secretary-General of the United Nations is hereby designated as the depositary for this Convention.

Article 16. Signature, ratification, acceptance or approval

1. This Convention is open for signature by all States [at [...] from [...] to [...] and thereafter] at the United Nations Headquarters in New York from [...] to [...].

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.

4. Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.

⁶ Draft articles 15, 16, 17, 18, 19, 20, 21, 22, variant A, 23 and 25 were already contained in the last version of the draft convention considered by the Working Group (A/CN.9/WG.IV/WP.110). Draft articles 16 *bis*, 19 *bis*, 22 variant B, and 24 reflect proposals for additional provisions made at the forty-fourth session of the Working Group. At that time, the Working Group considered and adopted draft articles 18 and 19 and held an initial exchange of views on the other final clauses, which, for lack of time, the Working Group did not formally approve. In the light of its deliberations on chapters I, II and III and articles 18 and 19, the Working Group requested the Secretariat to make consequential changes in the draft final provisions in chapter IV, as contained in the version of the draft convention considered by the Working Group. The Working Group also requested the Secretariat to insert within square brackets in the final draft to be submitted to the Commission the draft additional provisions that had been proposed during its forty-fourth session (A/CN.9/571, para. 10).

[Article 16 bis. Participation by Regional Economic Integration Organisations⁷

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by this Convention. Where the number of Contracting States is relevant in this Convention, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.

2. The Regional Economic Integration Organisation shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a “Contracting State” or “Contracting States” or “State Party” or “States Parties” in this Convention applies equally to a Regional Economic Integration Organisation where the context so requires.]

Article 17. Effect in domestic territorial units

1. If a Contracting State has two or more territorial units in which⁸ different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

2. These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.

3. If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, and if the place of business of a party is located in that State, this place of business, for the purposes of this Convention, is considered not to be in a Contracting State, unless it is in a territorial unit to which the Convention extends.

⁷ This draft article was not contained in the last version of the draft convention that was considered by the Working Group (A/CN.9/WG.IV/WP.110). It reflects a proposal made by Austria, Belgium, Croatia, Czech Republic, Denmark, Finland, France, Germany, Italy, Spain, Sweden, and the European Commission at the 44th session of the Working Group (A/CN.9/WG.IV/XLIV/CRP.3).

⁸ The wording of the draft article reflects the wording of similar provisions in other instruments prepared by UNCITRAL. However, the words “according to its constitution”, which appeared after the words “two or more territorial units in which” in the previous version of the draft convention (A/CN.9/WG.IV/WP.110) have been deleted, as it was suggested that, in practice, those words, particularly when narrowly read, had given rise to uncertainty, since the legal basis for the existence of different legal systems in territorial units belonging to the same State may not always derive from provisions of a written constitution.

4. If a Contracting State makes no declaration under paragraph (1) of this article, the Convention is to extend to all territorial units of that State.

Article 18. Declarations on the scope of application

1. Any State may declare, in accordance with article 20, that it will apply this Convention only:

(a) When the States referred to in article 1, paragraph 1 are Contracting States to this Convention;

(b) When the rules of private international law lead to the application of the law of a Contracting State; or

(c) When the parties have agreed that it applies.

2. Any State may exclude from the scope of application of this Convention the matters it specifies in a declaration made in accordance with article 20.

Article 19. Communications exchanged under other international conventions

1. The provisions of this Convention apply to the use of electronic communications in connection with the formation or performance of a contract or agreement to which any of the following international conventions, to which a Contracting State to this Convention is or may become a Contracting State, apply:

Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958);

Convention on the Limitation Period in the International Sale of Goods (New York, 14 June 1974) and Protocol thereto (Vienna, 11 April 1980);

United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980);

United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 19 April 1991);

United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (New York, 11 December 1995);

United Nations Convention on the Assignment of Receivables in International Trade (New York, 12 December 2001).

2. The provisions of this Convention apply further to electronic communications in connection with the formation or performance of a contract or agreement to which another international convention, treaty or agreement not specifically referred to in paragraph 1 of this article, and to which a Contracting State to this Convention is or may become a Contracting State, applies, unless the State has declared, in accordance with article 20, that it will not be bound by this paragraph.

3. A State that makes a declaration pursuant to paragraph 2 of this article may also declare that it will nevertheless apply the provisions of this Convention to the use of electronic communications in connection with the formation or performance of any contract or agreement to which a specified international

convention, treaty or agreement applies to which the State is or may become a Contracting State.

4. Any State may declare that it will not apply the provisions of this Convention to the use of electronic communications in connection with the formation or performance of a contract or agreement to which any international convention, treaty or agreement specified in that State's declaration, to which the State is or may become a Contracting State, applies, including any of the conventions referred to in paragraph 1 of this article, even if such State has not excluded the application of paragraph 2 of this article by a declaration made in accordance with article 20.

[Article 19 bis. Procedure for amendments to article 19, paragraph 1⁹

1. The list of instruments in article 19, paragraph 1 may be amended by the addition of [other conventions prepared by UNCITRAL] [relevant conventions, treaties or agreements] that are open to the participation of all States.

2. After the entry into force of this Convention, any State Party may propose such an amendment. Any proposal for an amendment shall be communicated to the depositary in written form. The depositary shall notify proposals that meet the requirements of paragraph 1 to all States Parties and seek their views on whether the proposed amendment should be adopted.

3. The proposed amendment shall be deemed adopted unless one third of the States Parties object to it by a written notification not later than 180 days after its circulation.]

Article 20. Procedure and effects of declarations

1. Declarations under articles 17, paragraphs 1, 18, paragraphs 1 and 2 and 19, paragraphs 2, 3 and 4 may be made at any time. Declarations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.

2. Declarations and their confirmations are to be in writing and be formally notified to the depositary.

3. A declaration takes effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force takes effect on the first day of the month following the expiration of six months after the date of its receipt by the depositary.

4. Any State which makes a declaration under this Convention may modify or withdraw it at any time by a formal notification in writing addressed to the depositary. The modification or withdrawal is to take effect on the first day of the month following the expiration of six months after the date of the receipt of the notification by the depositary.

⁹ This draft article was not contained in the last version of the draft convention that was considered by the Working Group (A/CN.9/WG.IV/WP.110). It reflects a proposal made by Belgium at the 44th session of the Working Group (A/CN.9/WG.IV/XLIV/CRP.5).

Article 21. Reservations

No reservations may be made under this Convention.

Article 22. Amendments

[Variant A¹⁰

1. Any Contracting State may propose amendments to this Convention. Proposed amendments shall be submitted in writing to the Secretary-General of the United Nations, who shall circulate the proposal to all States Parties, with the request that they indicate whether they favour a conference of States Parties. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Proposals for amendment shall be circulated to the Contracting States at least ninety days in advance of the conference.

2. Amendments to this Convention shall be adopted by [two thirds] [a majority of] the Contracting States present and voting at the conference of Contracting States and shall enter into force in respect of States which have ratified, accepted or approved such amendment on the first day of the month following the expiration of six months after the date on which [two thirds] of the Contracting States as of the time of the adoption of the amendment at the conference of the Contracting States have deposited their instruments of acceptance of the amendment.]

[Variant B¹¹

1. The [Office of Legal Affairs of the United Nations] [secretariat of the United Nations Commission on International Trade Law]¹² shall prepare reports [yearly or] at such [other] time as the circumstances may require for the States Parties as to the manner in which the international regimen established in this Convention has operated in practice.

2. At the request of [not less than twenty-five per cent of] the States Parties, review conferences of Contracting States shall be convened from time to time by the [Office of Legal Affairs of the United Nations] [secretariat of the United Nations Commission on International Trade Law] to consider:

(a) The practical operation of this Convention and its effectiveness in facilitating electronic commerce covered by its terms;

¹⁰ Variant A of this draft article was already contained in the last version of the draft convention that was considered by the Working Group (A/CN.9/WG.IV/WP.110).

¹¹ Variant B of the draft article was not contained in the last version of the draft convention that was considered by the Working Group (A/CN.9/WG.IV/WP.110). It reflects a proposal made by the United States of America at the forty-fourth session of the Working Group (A/CN.9/WG.IV/XLIV/CRP.4).

¹² These references may need to be replaced with references to “the Secretary-General of the United Nations” or “the Depositary” to ensure consistency with the existing practice of the United Nations in respect of administrative services provided to Member States. The Secretariat is studying the implications of the proposed formulation and will advise the Commission on the matter at its thirty-eight session (Vienna, 4-15 July 2005).

(b) The judicial interpretation given to, and the application made of, the terms of this Convention; and

(c) Whether any modifications to this Convention are desirable.

3. Any amendment to this Convention shall be approved by at least a two-thirds majority of States participating in the conference referred to in the preceding paragraph and shall then enter into force in respect of States which have ratified, accepted or approved such amendment when ratified, accepted, or approved by three States in accordance with the provisions of article 23 relating to its entry into force.]

Article 23. Entry into force

1. This Convention enters into force on the first day of the month following the expiration of six months after the date of deposit of the [...] instrument of ratification, acceptance, approval or accession.

2. When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the [...] instrument of ratification, acceptance, approval or accession, this Convention enters into force in respect of that State on the first day of the month following the expiration of six months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

[Article 24. Transitional rules¹³

[1. This Convention applies only to electronic communications that are made after the date when the Convention enters into force.

[2. In Contracting States that makes a declaration under article 18, paragraph 1, this Convention applies only to electronic communications that are made after the date when the Convention enters into force in respect of the Contracting States referred to in paragraph 1 (a) or the Contracting State referred to in paragraph 1 (b) of article 18.

[3. This Convention applies only to the electronic communications referred to in article 19, paragraph 1, after the date when the relevant Convention among those listed in article 19, paragraph 1 has entered into force in the Contracting State.

[4. When a Contracting State has made a declaration under article 19, paragraph 3, this Convention applies only to electronic communications in connection with the formation or performance of a contract falling within the scope of the declaration after the date when the declaration takes effect in accordance with article 20, paragraph 3 or 4.

[5. A declaration under article 18, paragraphs 1 or 2, or article 19, paragraphs 2, 3 or 4, or its withdrawal or modification, does not affect any rights created by electronic communications made before the date when the declaration takes effect in accordance with article 20, paragraph 3 or 4.]

¹³ The last version of the draft convention that was considered by the Working Group (A/CN.9/WG.IV/WP.110) contained only paragraph 1 of the draft article. In its current form, the draft article reflects a proposal made by the United States of America at the forty-fourth session of the Working Group (A/CN.9/WG.IV/XLIV/CRP.6).

Article 25. Denunciations

1. A Contracting State may denounce this Convention by a formal notification in writing addressed to the depositary.

2. The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

DONE at [...], this [...] day of [...], [...], in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention.

Annex II

References to preparatory work by Working Group IV (Electronic Commerce)

Preamble

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, para. 10
43 rd session (New York, 15-19 March 2004)	A/CN.9/548, para. 82

Article 1. Scope of application

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 14-27
43 rd session (New York, 15-19 March 2004)	A/CN.9/548, paras. 71-97
41 st session (New York, 5-9 May 2003)	A/CN.9/528, paras. 32-48
40 th session (Vienna, 14-18 October 2002)	A/CN.9/527, paras. 73-81
39 th session (New York, 11-15 March 2002)	A/CN.9/509, paras. 28-40

Article 2. Exclusions

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 59-69
43 rd session (New York, 15-19 March 2004)	A/CN.9/548, paras. 98-111; see also paras. 112-118
41 st session (New York, 5-9 May 2003)	A/CN.9/528, paras. 49-64, see also paras. 65-69 (on a related draft article since deleted)
40 th session (Vienna, 14-18 October 2002)	A/CN.9/527, paras. 82-98, see also paras. 99-104 (on a related draft article since deleted)

Article 3. Party autonomy

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 70-77
43 rd session (New York, 15-19 March 2004)	A/CN.9/548, paras. 119-124
41 st session (New York, 5-9 May 2003)	A/CN.9/528, paras. 70-75
40 th session (Vienna, 14-18 October 2002)	A/CN.9/527, paras. 105-110

Article 4. Definitions

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 78-89
41 st session (New York, 5-9 May 2003)	A/CN.9/528, paras. 76-77
40 th session (Vienna, 14-18 October 2002)	A/CN.9/527, paras. 111-122

Article 5. Interpretation

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 90-91
41 st session (New York, 5-9 May 2003)	A/CN.9/528, paras. 78-80
40 th session (Vienna, 14-18 October 2002)	A/CN.9/527, paras. 123-126

Article 6. Location of the parties

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 92-114
41 st session (New York, 5-9 May 2003)	A/CN.9/528, paras. 81-93
39 th session (New York, 11-15 March 2002)	A/CN.9/509, paras. 41-59

Article 7. Information requirements

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 115-116
42 nd session (Vienna, 17-21 November 2003)	A/CN.9/546, paras. 87-105 (at that time article 11)
39 th session (New York, 11-15 March 2002)	A/CN.9/509, paras. 60-65

Article 8. Legal recognition of electronic communications

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 117-122
42 nd session (Vienna, 17-21 November 2003)	A/CN.9/546, paras. 39-45
41 st session (New York, 5-9 May 2003)	A/CN.9/528, paras. 94-108, see also paras. 121-131 (on a related draft since deleted) paras. 117-120 (on a related draft article since deleted)
39 th session (New York, 11-15 March 2002)	A/CN.9/509, paras. 86-92; see also paras. 66-73 (on a related draft article since deleted)

Article 9. Form requirements

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 123-139
43 rd session (New York, 15-19 March 2004)	A/CN.9/548, paras. 47-58
42 nd session (Vienna, 17-21 November 2003)	A/CN.9/546, paras. 46-58
39 th session (New York, 11-15 March 2002)	A/CN.9/509, paras. 112-121

Article 10. Time and place of dispatch and receipt of electronic communications

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 140-166
42 nd session (Vienna, 17-21 November 2003)	A/CN.9/546, paras. 59-86
41 st session (New York, 5-9 May 2003)	A/CN.9/528, paras. 132-151
39 th session (New York, 11-15 March 2002)	A/CN.9/509, paras. 93-98

Article 11. Invitations to make offers

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 167-172
42 nd session (Vienna, 17-21 November 2003)	A/CN.9/546, paras. 106-116
41 st session (New York, 5-9 May 2003)	A/CN.9/528, paras. 109-120
39 th session (New York, 11-15 March 2002)	A/CN.9/509, paras. 74-85

Article 12. Use of automated information systems for contract formation

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 173-174
39 th session (New York, 11-15 March 2002)	A/CN.9/509, paras. 99-103

Article 13. Availability of contract terms

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 175-181
42 nd session (Vienna, 17-21 November 2003)	A/CN.9/546, paras. 130-135
39 th session (New York, 11-15 March 2002)	A/CN.9/509, paras. 122-125

Article 14. Error in electronic communications

44 th session (Vienna, 11-22 October 2004)	A/CN.9/571, paras. 182-206
43 rd session (New York, 15-19 March 2004)	A/CN.9/548, paras. 14-26
39 th session (New York, 11-15 March 2002)	A/CN.9/509, para. 99 and paras. 104-111

Article 15. Depositary

44th session (Vienna, 11-22 October 2004) A/CN.9/571, para. 10

Article 16. Signature, ratification, acceptance or approval

44th session (Vienna, 11-22 October 2004) A/CN.9/571, para. 10

Article 16 bis. Participation by Regional Economic Integration Organizations

44th session (Vienna, 11-22 October 2004) A/CN.9/571, para. 10

Article 17. Effect in domestic territorial units

44th session (Vienna, 11-22 October 2004) A/CN.9/571, para. 10

Article 18. Declarations on the scope of application

44th session (Vienna, 11-22 October 2004) A/CN.9/571, paras. 28-46

43rd session (New York, 15-19 March 2004) A/CN.9/548, paras. 27-37

Article 19. Communications exchanged under other international conventions

44th session (Vienna, 11-22 October 2004) A/CN.9/571, paras. 23-27, 47-58

43rd session (New York, 15-19 March 2004) A/CN.9/548, paras. 38-70

Article 19 bis. Procedure for amendments to article 19, paragraph 1

44th session (Vienna, 11-22 October 2004) A/CN.9/571, para. 10

Article 20. Procedure and effects of declarations

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Article 21. Reservations

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Article 22. Amendments

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Article 23. Entry into force

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Article 24. Transitional rules

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Article 25. Denunciations

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