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United Nations Commission on International Trade Law Working Group IV (Electronic Commerce) Fifty-fifth session

New York, 24-28 April 2017

Annotated provisional agenda

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II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following: Argentina (2022), Armenia (2019), Australia (2022), Austria (2022), Belarus (2022), Brazil (2022), Bulgaria (2019), Burundi (2022), Cameroon (2019), Canada (2019), Chile (2022), China (2019), Colombia (2022), Côte d'Ivoire (2019), Czech Republic (2022), Denmark (2019), Ecuador (2019), El Salvador (2019), France (2019), Germany (2019), Greece (2019), Honduras (2019), Hungary (2019), India (2022), Indonesia (2019), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2019), Kenya (2022), Kuwait (2019), Lebanon (2022), Lesotho (2022), Liberia (2019), Libya (2022), Malaysia (2019), Mauritania (2019), Mauritius (2022), Mexico (2019), Namibia (2019), Nigeria (2022), Pakistan (2022), Panama (2019), Philippines (2022), Poland (2022), Republic of Korea (2019), Romania (2022), Russian Federation (2019), Sierra Leone (2019), Singapore (2019), Spain (2022), Sri Lanka (2022), Switzerland (2019), Thailand (2022), Turkey (2022), Uganda (2022), United Kingdom of Great Britain and Northern Ireland (2019), United States of America (2022), Venezuela (Bolivarian Republic of) (2022) and Zambia (2019).



The term of the membership expires on the last day prior to the beginning of the annual session of the Commission in the year indicated in parentheses.

2. Member States not members of the Commission, non-Member States having received a standing invitation to participate as observers in the sessions and the work of the General Assembly, 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 fifty-fifth session of the Working Group will be held at the United Nations Headquarters, New York, from 24 to 28 April 2017. Meeting hours will be from 10 a.m. to 1 p.m. and from 3 to 6 p.m., except on Monday, 24 April 2017, when the session will be opened at 10.30 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 Chairperson and a Rapporteur.

Item 4. Contractual aspects of cloud computing

Item 5. Legal issues related to identity management and trust services

(a) Background information

6. At its forty-eighth session, in 2015, the Commission instructed the Secretariat to conduct preparatory work on identity management and trust services, cloud computing and mobile commerce, including through the organization of colloquia and expert group meetings, for future discussion at the Working Group level. The Commission also asked the Secretariat to share the result of that preparatory work with Working Group IV, with a view to seeking recommendations on the exact scope, possible methodology and priorities for the consideration of the Commission at its forty-ninth session.²

7. At its forty-ninth session, in 2016, the Commission had before it a note by the Secretariat on legal issues related to identity management and trust services ([A/CN.9/891](#)) summarizing the discussions during the UNCITRAL Colloquium on Legal Issues Related to Identity Management and Trust Services held in Vienna on 21 and 22 April 2016 and complemented by other material. The Commission was also informed that work on contractual aspects of cloud computing had started at the expert

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.*, *Seventieth Session, Supplement No. 17 (A/70/17)*, para. 358.

level on the basis of a proposal (A/CN.9/856) submitted at the forty-eighth session of the Commission, in 2015.³

8. At that session, the Commission agreed that the topics of identity management and trust services as well as of cloud computing should be retained on the work agenda and that it would be premature to prioritize between the two topics. The Commission confirmed its decision that the Working Group could take up work on those topics upon completion of the work on the draft Model Law on Electronic Transferable Records. In that context, the Secretariat, within its existing resources, and the Working Group were asked to continue to update and conduct preparatory work on the two topics including their feasibility in parallel and in a flexible manner and report back to the Commission so that it could make an informed decision at a future session, including the priority to be given to each topic. In that context, it was mentioned that priority should be based on practical needs rather than on how interesting the topic was or the feasibility of work.⁴

9. At its fifty-fourth session (Vienna, 31 October-4 November 2016), the Working Group held a preliminary exchange of view on a possible future work on **cloud computing**. While no decision was made, it was noted that the preparation of a descriptive document listing issues relevant when reviewing contracts for cloud computing services could be particularly useful in assisting small and medium-sized enterprises. It was added that such document should reflect contractual practices and, where available, legislation, and should refer to relevant technical standards, but should not have a legislative nature, without prejudice to future deliberations and decisions of the Commission (A/CN.9/897, para. 126).

10. At the same session, the Working Group agreed that its future work on **identity management and trust services** should be limited to the use of identity management systems for commercial purposes and that it should not take into account the private or public nature of the identity management services provider. The Working Group also agreed that, while work on identity management could be taken up before work on trust services, the identification and definition of terms relevant for identity management and trust services should take place simultaneously given the close relationship between the two. It was further agreed that focus should be placed on multi-party identity systems and on natural and legal persons, without excluding consideration of two-party identity systems and of physical and digital objects when appropriate. In addition, it was agreed that the Working Group should continue its work by further clarifying the goals of the project, specifying its scope, identifying applicable general principles and drafting necessary definitions (A/CN.9/897, paras. 118-120 and 122).

(b) Documentation

11. Under provisional agenda item 4 (**Contractual aspects of cloud computing**), the Working Group will have before it a note by the Secretariat submitted pursuant to the request of the Commission (see para. 6 above) (A/CN.9/WG.IV/WP.142). The note summarizes results of the preparatory work accomplished so far by the Secretariat in the area of cloud computing and outlines issues as regards future work in that area for consideration by the Working Group.

12. Under provisional agenda item 5 (**Legal issues related to identity management and trust services**), the Working Group will have before it a note by the Secretariat transmitting a paper submitted by the Russian Federation to the Secretariat for consideration at the fifty-fifth session of the Working Group (A/CN.9/WG.IV/WP.141).

³ Ibid., *Seventy-first Session, Supplement No. 17 (A/71/17)*, para. 229.

⁴ Ibid., paras. 235 and 353.

Under the same agenda item, the Working Group will have before it a note by the Secretariat containing definitions of terms and concepts relevant to identity management and trust services ([A/CN.9/WG.IV/WP.143](#)).

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

(a) United Nations Convention on the Use of Electronic Communications in International Contracts;

(b) UNCITRAL Model Law on Electronic Commerce with Guide to Enactment;

(c) UNCITRAL Model Law on Electronic Signatures with Guide to Enactment;

(d) Promoting confidence in electronic commerce: legal issues on international use of electronic authentication and signature methods;

(e) Report of Working Group IV (Electronic Commerce) on the work of its fifty-fourth session ([A/CN.9/897](#));

(f) Overview of identity management — Background paper submitted by the Identity Management Legal Task Force of the American Bar Association ([A/CN.9/WG.IV/WP.120](#));

(g) Possible future work on electronic commerce — Legal issues affecting cloud computing — Proposal by the Government of Canada ([A/CN.9/823](#));

(h) Possible future work in the area of electronic commerce — legal issues related to identity management and trust services — Proposal by Austria, Belgium, France, Italy and Poland ([A/CN.9/854](#));

(i) Possible future work in the area of electronic commerce — Contractual issues in the provision of cloud computing services — Proposal by Canada ([A/CN.9/856](#));

(j) Online dispute resolution for cross-border electronic commerce transactions: Submission by the Russian Federation ([A/CN.9/WG.III/WP.136](#)); and

(k) Legal Issues Related to Identity Management and Trust Services ([A/CN.9/891](#)).

14. 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 Group Documents" section of the UNCITRAL website.

(c) Scheduling of consideration of agenda items 4 and 5

15. The Secretariat recommends that the Working Group devote its meetings taking place on 24 and 25 April to consideration of agenda item 4 (**Contractual aspects of cloud computing**) and the meetings taking place on 26 and 27 April to consideration of agenda item 5 (**Legal issues related to identity management and trust services**).

Item 6. Technical assistance and coordination

16. The Working Group will hear an oral report on technical assistance and coordination activities undertaken by the Secretariat related to the promotion of UNCITRAL texts on electronic commerce.

Item 7. Other business

17. The Working Group may wish to consider other issues related to its work programme, in particular any activities in furtherance of the mandate received from the Commission with respect to other topics selected for future work of the Working Group (see para. 6 above) and to legal issues relating to electronic single-window facilities and paperless trade facilitation.⁵

18. At its fifty-fifth session, the Working Group may also wish to take note that its fifty-sixth session is tentatively scheduled to be held in Vienna from 16 to 20 October 2017, those dates being subject to confirmation by the Commission at its fiftieth session, scheduled to be held in Vienna from 3 to 21 July 2017.

Item 8. Adoption of the report

19. The Working Group may wish to adopt, at the close of its session, on Friday, 28 April 2017, a report for submission to the fiftieth session of the Commission. 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.

⁵ Ibid., *Sixty-sixth Session, Supplement No. 17 (A/66/17)*, para. 240. For the most recent consideration of the issue, see *ibid.*, *Seventy-first Session, Supplement No. 17 (A/71/17)*, paras. 238- 240.