



General Assembly

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**United Nations Commission on
International Trade Law
Working Group IV (Electronic Commerce)
Fifty-ninth session
Vienna, 25–29 November 2019**

Annotated provisional agenda

I. 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: Algeria (2025), Argentina (2022), Australia (2022), Austria (2022), Belarus (2022), Belgium (2025), Brazil (2022), Burundi (2022), Cameroon (2025), Canada (2025), Chile (2022), China (2025), Colombia (2022), Côte d'Ivoire (2025), Croatia (2025), Czechia (2022), Dominican Republic (2025), Ecuador (2025), Finland (2025), France (2025), Germany (2025), Ghana (2025), Honduras (2025), Hungary (2025), India (2022), Indonesia (2025), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2025), Kenya (2022), Lebanon (2022), Lesotho (2022), Libya (2022), Malaysia (2025), Mali (2025), Mauritius (2022), Mexico (2025), Nigeria (2022), Pakistan (2022), Peru (2025), Philippines (2022), Poland (2022), Republic of Korea (2025), Romania (2022), Russian Federation (2025), Singapore (2025), South Africa (2025), Spain (2022), Sri Lanka (2022), Switzerland (2025), Thailand (2022), Turkey (2022), Uganda (2022), Ukraine (2025), United Kingdom of Great Britain and Northern Ireland (2025), United States of America (2022), Venezuela (Bolivarian Republic of) (2022), Viet Nam (2025) and Zimbabwe (2025).

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 and scheduling of meetings

3. The fifty-ninth session of the Working Group will be held at the Vienna International Centre in Vienna from 25 to 29 November 2019. Meeting hours will be from 9.30 a.m. to 12.30 p.m. and from 2 to 5 p.m., except on Monday, 25 November 2019, when the session will be opened at 10.00 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 half-day 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. Legal issues related to identity management and trust services

(a) Background information

6. At its forty-eighth session, in 2015, the Commission requested the Secretariat to conduct preparatory work on legal aspects of identity management (“IdM”) and trust services, including through the organization of colloquiums and expert group meetings, for future discussion at the Working Group level ([A/CN.9/854](#)).² The Commission also asked the Secretariat to share the result of such 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.³

7. At its forty-ninth session, in 2016, the Commission had before it a note by the Secretariat on legal issues related to IdM and trust services ([A/CN.9/891](#)), which summarized the discussions during the UNCITRAL Colloquium on Legal Issues Related to Identity Management and Trust Services held in Vienna on 21 and 22 April 2016.⁴ The Commission agreed that the topic of IdM and trust services should be retained on the work agenda of the Working Group.⁵

8. At its fifty-fourth session (Vienna, 31 October–4 November 2016), the Working Group engaged in discussions on legal issues related to IdM and trust services as well as on contractual aspects of cloud computing. The Working Group agreed that its future work on IdM and trust services should be limited to the use of IdM systems for commercial purposes and that it should not take into account the private or public nature of the IdM service provider. The Working Group also agreed that, while work on IdM could be taken up before work on trust services, the identification and definition of terms relevant for IdM 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 IdM systems and on the identification of natural and legal persons, without excluding consideration of two-party IdM systems and the identification of physical and digital objects, when appropriate. In addition,

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](#)), paras. 354–355 and 358.

³ *Ibid.*, para. 358.

⁴ *Ibid.*, *Seventy-first Session, Supplement No. 17* ([A/71/17](#)), para. 228.

⁵ *Ibid.*, paras. 235–236.

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).

9. After completing its work on the Model Law on Electronic Transferable Records at its fifty-fourth session, the Working Group considered legal issues related to IdM and trust services and contractual aspects of cloud computing. At its fifty-fifth session (New York, 24–28 April 2017), the Working Group discussed, among other things, the objectives, general principles, and scope of its work on IdM and trust services ([A/CN.9/902](#), paras. 29–85).

10. At its fiftieth session, in 2017, the Commission reaffirmed the mandate given to the Working Group at its forty-ninth session, in 2016 (see para. 7 above). The Secretariat was requested to consider convening expert group meetings as it deemed necessary to expedite the work in both areas and ensure the productive use of conference resources by the Working Group. States and international organizations were invited to share with the Working Group and the Secretariat their expertise in the areas of work assigned to the Working Group.⁶

11. The Secretariat convened an expert group meeting on legal aspects of IdM and trust services in Vienna on 23 and 24 November 2017.

12. At its fifty-sixth session (New York, 16–20 April 2018), the Working Group identified the following issues as relevant for its discussion of legal aspects of IdM and trust services: scope of work; general principles; definitions; mutual recognition requirements and mechanisms; certification of IdM and trust services; levels of assurance for IdM and trust services; liability; institutional cooperation mechanisms; transparency; obligation to identify; data retention; and supervision of service providers ([A/CN.9/936](#), paras. 61–94).

13. At its fifty-first session, in 2018, on the recommendation of the Working Group ([A/CN.9/936](#), para. 95), the Commission requested the Working Group to conduct work on legal issues relating to IdM and trust services with a view to preparing a text aimed at facilitating cross-border recognition of IdM and trust services, on the basis of the principles and issues identified by the Working Group at its fifty-sixth session.⁷

14. At its fifty-seventh session (Vienna, 19–23 November 2018), the Working Group continued its discussions on the legal issues relating to IdM and trust services that it had identified at its fifty-sixth session ([A/CN.9/965](#), paras. 10–129).

15. At its fifty-eighth session (New York, 8–12 April 2019), the Working Group had before it a set of draft provisions on the cross-border recognition of IdM and trust services ([A/CN.9/WG.IV/WP.157](#)) accompanied by explanatory remarks ([A/CN.9/WG.IV/WP.158](#)). The Working Group considered the draft provisions on scope of application, recognition and reliability of IdM systems and trust services, types of trust services to be covered, and obligations and liability of IdM and trust service providers (see [A/CN.9/971](#), paras. 13–153).

16. Among other deliberations on the draft provisions, the Working Group requested the Secretariat to prepare concrete proposals, in consultation with relevant experts, on matters relating to the reliability of IdM systems, for consideration by the Working Group at its fifty-ninth session ([A/CN.9/971](#), para. 67). Further to this request, the Secretariat convened an expert group meeting in Vienna on 22 and 23 July 2019 to discuss standards and procedures that qualify an IdM system for legal recognition, as well as other matters covered in the draft provisions, notably the reliability of IdM systems, and the obligations and liability of IdM service providers.

17. At its fifty-second session, the Commission expressed its satisfaction with the progress made by the Working Group and encouraged the Working Group to continue its work on the basis of the revised set of provisions to be prepared by the Secretariat.⁸

⁶ Ibid., *Seventy-second Session, Supplement No. 17* ([A/72/17](#)), para. 127.

⁷ Ibid., *Seventy-third Session, Supplement No. 17* ([A/73/17](#)), para. 159.

⁸ Ibid., *Seventy-fourth Session, Supplement No. 17* ([A/74/17](#)), para. 175.

The Commission also noted that, at this early stage of the project, the Working Group should work towards an instrument that could apply to both domestic and cross-border use of IdM and trust services, and that the outcome of the work had implications for matters beyond commercial transactions.⁹

(b) Documentation

18. The Working Group will have before it a note by the Secretariat containing revised draft provisions on the cross-border recognition of identity management and trust services (A/CN.9/WG.IV/WP.160). The revised draft provisions incorporate the deliberations of the Working Group at its fifty-eighth session, as well as the outcome of the Secretariat's consultations with experts.

19. 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) Report of Working Group IV (Electronic Commerce) on the work of its fifty-fifth session ([A/CN.9/902](#));
- (g) Report of Working Group IV (Electronic Commerce) on the work of its fifty-sixth session ([A/CN.9/936](#));
- (h) Report of Working Group IV (Electronic Commerce) on the work of its fifty-seventh session ([A/CN.9/965](#));
- (i) Report of Working Group IV (Electronic Commerce) on the work of its fifty-eighth session ([A/CN.9/971](#));
- (j) 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](#));
- (k) 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](#));
- (l) Submissions by the Russian Federation ([A/CN.9/WG.III/WP.136](#) and [A/CN.9/WG.IV/WP.141](#));
- (m) Proposal by Austria, Belgium, France, Italy, the United Kingdom and the European Union ([A/CN.9/WG.IV/WP.144](#));
- (n) Submission by the United States ([A/CN.9/WG.IV/WP.145](#));
- (o) Submission by the United Kingdom ([A/CN.9/WG.IV/WP.146](#));
- (p) Submission by Germany ([A/CN.9/WG.IV/WP.155](#) and Add.1);
- (q) A note by the Secretariat on legal issues related to identity management and trust services ([A/CN.9/891](#));
- (r) A note by the Secretariat on legal issues related to identity management and trust services ([A/CN.9/WG.IV/WP.153](#));

⁹ Ibid., para. 172.

(s) A note by the Secretariat on legal issues related to identity management and trust services ([A/CN.9/WG.IV/WP.154](#));

(t) A note by the Secretariat on draft provisions on the cross-border recognition of IdM and trust services ([A/CN.9/WG.IV/WP.157](#));

(u) A note by the Secretariat on explanatory remarks on the draft provisions on the cross-border recognition of IdM and trust services ([A/CN.9/WG.IV/WP.158](#)); and

(v) A note by the Secretariat containing definitions of terms and concepts relevant to identity management and trust services ([A/CN.9/WG.IV/WP.150](#)).

20. UNCITRAL documents are posted on the UNCITRAL website (<https://uncitral.un.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 Documents" section of the UNCITRAL website.

Item 5. Technical assistance and coordination

21. 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 6. Other business

22. The Working Group may wish to consider other issues related to its work programme, in particular any activity in furtherance of the mandate received from the Commission with respect to legal issues relating to electronic single-window facilities and paperless trade facilitation.¹⁰

23. In addition, the Working Group may wish to note that, at its fifty-second session, the Commission, after noting that UNCITRAL played a central and coordinating role within the United Nations system in addressing legal issues related to the digital economy and digital trade, requested the Secretariat to (a) continue its exploratory work on these legal issues, in particular in collaboration with the Unidroit secretariat and interested States, with a view to formulating a proposal for possible future work in this area; (b) prepare a workplan to address the specific legal issues identified in the course of that exploratory work, in particular in respect of cross-border data flows, including recommendations both for dealing with them in existing instruments and for the development of specific new instruments, as appropriate; and (c) report back to the Commission at its fifty-third session, in 2020, on the progress of its exploratory work.¹¹

24. The Working Group may also wish to note that its sixtieth session is to be held in New York from 6 to 9 April 2020, 10 April being an official United Nations holiday.

Item 7. Adoption of the report

25. The Working Group may wish to adopt, at the close of its session, on Friday 29 November 2019, a report for submission to the fifty-third 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.

¹⁰ Ibid., *Sixty-sixth Session, Supplement No. 17* ([A/66/17](#)), para. 240. For the most recent consideration of the issue, see *ibid.*, *Seventy-third Session, Supplement No. 17* ([A/73/17](#)), para. 160.

¹¹ Ibid., *Seventy-fourth Session, Supplement No. 17* ([A/74/17](#)), para. 211.