



General Assembly

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**United Nations Commission on
International Trade Law
Working Group IV (Electronic Commerce)
Sixtieth session
Vienna, 19–23 October 2020**

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session and scheduling of meetings.
2. Adoption of the agenda.
3. Draft instrument on the use and cross-border recognition of identity management and trust services.
4. Other business.

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 sixtieth session of the Working Group was originally scheduled to be held at the United Nations Headquarters, New York, from 6 to 9 April 2020, but was postponed due to the spread of the coronavirus disease (COVID-19). The session is now scheduled to be held at the Vienna International Centre from 19 to 23 October 2020.

Item 3. Draft instrument on the use and cross-border recognition of identity management and trust services

(a) Background information

4. 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](#)).¹ 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.²

5. 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 2016.³ The Commission agreed that the topic of IdM and trust services should be retained on the work agenda of the Working Group.⁴

6. 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, 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).

7. 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).

8. 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. 5 above). The Secretariat was requested to consider convening expert group meetings as it deemed

¹ *Official Records of the General Assembly, Seventieth Session, Supplement No. 17* ([A/70/17](#)), paras. 354–355 and 358.

² *Ibid.*, para. 358.

³ *Ibid.*, *Seventy-first Session, Supplement No. 17* ([A/71/17](#)), para. 228.

⁴ *Ibid.*, paras. 235–236.

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.⁵

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

10. 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).

11. 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.⁶

12. 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).

13. 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).

14. 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.

15. 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.⁷ 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.⁸

16. At its fifty-ninth session (Vienna, 25–29 November 2019), the Working Group had before it a revised set of draft provisions on the cross-border recognition of IdM and trust services ([A/CN.9/WG.IV/WP.160](#)), which incorporated the deliberations of the Working Group at its fifty-eighth session, as well as the outcome of the Secretariat's consultations with experts (see para. 14 above). The Working Group conducted a complete read-through of the draft provisions, focusing on those relating to trust services ([A/CN.9/1005](#), paras. 10–122). The Working Group also held

⁵ Ibid., *Seventy-second Session, Supplement No. 17* ([A/72/17](#)), para. 127.

⁶ Ibid., *Seventy-third Session, Supplement No. 17* ([A/73/17](#)), para. 159.

⁷ Ibid., *Seventy-fourth Session, Supplement No. 17* ([A/74/17](#)), para. 175.

⁸ Ibid., para. 172.

preliminary discussions on the form of the instrument, with a strong preference being expressed for the instrument taking the form of a model law as opposed to a convention (*ibid.*, para. 123).

17. To facilitate progress of work during the COVID-19 pandemic, the Secretariat invited States, international governmental organizations and invited international non-governmental organizations to submit comments on the draft provisions ahead of the rescheduled sixtieth session of the Working Group.

(b) Documentation

18. The Working Group will have before it a note by the Secretariat containing revised draft provisions on the use and cross-border recognition of identity management and trust services ([A/CN.9/WG.IV/WP.162](#)), which incorporate the deliberations of the Working Group at its fifty-ninth session. In addition, the Working Group will have before it comments on the draft provisions that were submitted by the World Bank prior to the spread of the COVID-19 pandemic ([A/CN.9/WG.IV/WP.163](#)), as well as a further note by the Secretariat synthesizing the comments received from States and organizations in response to the invitation of the Secretariat (see para. 17 above). Additional submissions by States may be expected.

19. The Working group may wish to refer to the following background documents, which can be downloaded from the UNCITRAL website (background documents are no longer available at Working Group sessions in printed form):

(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) Report of Working Group IV (Electronic Commerce) on the work of its fifty-ninth session ([A/CN.9/1005](#));

(k) 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](#));

(l) 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](#));

(m) Submissions by the Russian Federation ([A/CN.9/WG.III/WP.136](#) and [A/CN.9/WG.IV/WP.141](#));

- (n) Proposal by Austria, Belgium, France, Italy, the United Kingdom and the European Union ([A/CN.9/WG.IV/WP.144](#));
- (o) Submission by the United States ([A/CN.9/WG.IV/WP.145](#));
- (p) Submission by the United Kingdom ([A/CN.9/WG.IV/WP.146](#));
- (q) Submission by Germany ([A/CN.9/WG.IV/WP.155](#) and Add.1);
- (r) A note by the Secretariat on legal issues related to identity management and trust services ([A/CN.9/891](#));
- (s) A note by the Secretariat on legal issues related to identity management and trust services ([A/CN.9/WG.IV/WP.153](#));
- (t) A note by the Secretariat on legal issues related to identity management and trust services ([A/CN.9/WG.IV/WP.154](#));
- (u) 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](#));
- (v) 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](#));
- (w) A note by the Secretariat on draft provisions on the cross-border recognition of identity management and trust services ([A/CN.9/WG.IV/WP.160](#));
- (x) 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 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. Delegates may wish to note that, due to the United Nations liquidity crisis, no pre-session and background documents for the session will be made available to delegates in print. In-session papers (i.e., a draft summary by the Chair and the Rapporteur and other possible conference room papers (CRPs) and their addenda) may be circulated during the session.

Item 4. Other business

21. The Working Group may wish to note that IdM, trust services, and paperless trade facilitation were some of the main topics discussed during day 1 and day 2 of a virtual panel series hosted by the Secretariat between 8 and 16 July 2020 on UNCITRAL texts and COVID-19 Response and Recovery. Details of these virtual panels, including recordings and copies of presentations, are available on a dedicated page of the UNCITRAL website (<https://uncitral.un.org/en/COVID-19-panels>).