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UNITED NATIONS COMMISSION
ON INTERNATIONAL TRADE LAW
Working Group on Electronic Commerce
Thirty-fourth session
Vienna, 8-19 February 1998

PROVISIONAL AGENDA

1. Election of officers
2. Adoption of the agenda
3. Legal aspects of electronic commerce:
draft uniform rules on electronic signatures
4. Other business
5. Adoption of the report

Notes on the provisional agenda

1. The Commission, at its twenty-ninth session (1996), decided to place the issues of digital signatures and certification authorities on its agenda. The Working Group on Electronic Commerce was requested to examine the desirability and feasibility of preparing uniform rules on those topics. It was agreed that the uniform rules to be prepared should deal with such issues as: the legal basis supporting certification processes, including emerging digital authentication and certification technology; the applicability of the certification process; the allocation of risk and liabilities of users, providers and third parties in the context of the use of certification techniques; the specific issues of certification through the use of registries; and incorporation by reference. ^{1/}

2. At its thirtieth session (1997), the Commission had before it the report of the Working Group on the work of its thirty-first session (A/CN.9/437). The Working Group indicated to the Commission that it had reached consensus as to the importance of, and the need for, working towards harmonization of law in that area. While no firm decision as to the form and content of such work had been reached, the Working Group had come to the preliminary conclusion that it was feasible to undertake the preparation of draft uniform rules at least on issues of digital signatures and certification authorities, and possibly on related matters. The Working Group recalled that, alongside digital signatures and certification authorities, future work in the area of electronic commerce might also need to address: issues of technical alternatives to public-key cryptography; general issues of functions performed by third-party service providers; and electronic contracting (A/CN.9/437, paras. 156-157).
3. The Commission endorsed the conclusions reached by the Working Group, and entrusted the Working Group with the preparation of uniform rules on the legal issues of digital signatures and certification authorities (hereinafter referred to as "the Uniform Rules").
4. With respect to the exact scope and form of the Uniform Rules, the Commission generally agreed that no decision could be made at this early stage of the process. It was felt that, while the Working Group might appropriately focus its attention on the issues of digital signatures in view of the apparently predominant role played by public-key cryptography in the emerging electronic-commerce practice, the Uniform Rules should be consistent with the media-neutral approach taken in the UNCITRAL Model Law on Electronic Commerce (the Model Law). Thus, the Uniform Rules should not discourage the use of other authentication techniques. Moreover, in dealing with public-key cryptography, the Uniform Rules might need to accommodate various levels of security and to recognize the various legal effects and levels of liability corresponding to the various types of services being provided in the context of digital signatures. With respect to certification authorities, while the value of market-driven standards was recognized by the Commission, it was widely felt that the Working Group might appropriately envisage the establishment of a minimum set of standards to be met by certification authorities, particularly where cross-border certification was sought.^{2/}
5. The Working Group began the preparation of the Uniform Rules at its thirty-second session on the basis of a note prepared by the Secretariat (A/CN.9/WG.IV/WP.73).
6. At its thirty-first session (1998), the Commission had before it the report of the Working Group on the work of its thirty-second session (A/CN.9/446). The Commission expressed its appreciation of the efforts accomplished by the Working Group in its preparation of draft Uniform Rules on Electronic Signatures. It was noted that the Working Group, throughout its thirty-first and thirty-second sessions, had experienced manifest difficulties in reaching a common understanding of the new legal issues that arose from the increased use of digital and other electronic signatures. It was also noted that a consensus was still to be found as to how those issues might be addressed in an internationally acceptable legal framework. However, it was generally felt by the Commission that the progress realized so far indicated that the draft Uniform Rules on Electronic Signatures were progressively being shaped into a workable structure.

7. The Commission reaffirmed the decision made at its thirty-first session as to the feasibility of preparing such Uniform Rules and expressed its confidence that more progress could be accomplished by the Working Group at its thirty-third session (New York, 29 June-10 July 1998) on the basis of the revised draft prepared by the Secretariat (A/CN.9/WG.IV/WP.76). In the context of that discussion, the Commission noted with satisfaction that the Working Group had become generally recognized as a particularly important international forum for the exchange of views regarding the legal issues of electronic commerce and for the preparation of solutions to those issues.^{3/}

8. The Working Group continued revision of the Uniform Rules at its thirty-third session (1998) on the basis of a note prepared by the Secretariat (A/CN.9/WG.IV/WP.76). The report of the session is contained in document A/CN.9/454. The Secretariat was requested to prepare, on the basis of the deliberations and conclusions of the Working Group, a set of revised provisions, with possible variants, for consideration by the Working Group at a future session.

9. The Working Group is composed of all States members of the Commission. These are:

Algeria, Australia, Austria, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, China, Colombia, Egypt, Fiji, Finland, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Lithuania, Mexico, Nigeria, Paraguay, Romania, Russian Federation, Singapore, Spain, Sudan, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, and Uruguay.

Item 1. Election of officers

10. The Working Group, in accordance with its practice at previous sessions, may wish to elect a Chairman and a Rapporteur.

Item 3. Legal aspects of electronic commerce: draft uniform rules on electronic signatures

11. The Working Group will have before it a note by the Secretariat containing revised articles 1 to 15 of draft Uniform Rules on electronic signatures (A/CN.9/WG.IV/WP.79). The Working Group may wish to use the note as a basis for its deliberations. Draft articles 17 to 19 (Chapter IV. Foreign Electronic Signatures) were not discussed by the Working Group at its thirty-third session and remain as set out in document A/CN.9/WG.IV/WP.76. The Working Group will also have before it a note by the Secretariat containing draft articles, which could be considered by the Working Group in combination with, or as alternatives to, draft articles 1 to 15 (A/CN.9/WG.IV/WP.80).

12. The following documents will be made available at the session:

- (a) Report of the Working Group on Electronic Commerce on the work of its thirty-third session (A/CN.9/454);

- (b) Draft Uniform Rules on Electronic Signatures: Note by the Secretariat (A/CN.9/WG.IV/WP.76);
- (c) Report of the Working Group on Electronic Commerce on the work of its thirty-session (A/CN.9/446);
- (d) Draft Uniform Rules on Electronic Signatures: Note by the Secretariat (A/CN.9/WG.IV/WP.73);
- (e) Report of the Working Group on Electronic Commerce on the work of its thirty-first session (A/CN.9/437); and
- (f) Planning of future work on electronic commerce: digital signatures, certification authorities and related legal issues: Note by the Secretariat (A/CN.9/WG.IV/WP.71);
- (g) UNCITRAL Model Law on Electronic Commerce with Guide to Enactment (1996).

Item 5. Adoption of the report

13. The Working Group may wish to adopt, at the close of its session, a report for submission to the thirty-second session of the Commission (to be held from 17 May to 4 June 1999 at Vienna).

Meetings

14. The session of the Working Group will take place from 8-19 February 1999 at the Vienna International Centre. There will be 8 working days available for consideration of the agenda items at the session. No meeting will be scheduled for Thursday, 18 February, in order to allow for the preparation of the draft report of the session. Meeting hours will be from 9:30 to 12:30 and from 14:00 to 17:00, except on Monday, 8 February 1999, when the session will commence at 10:00 a.m.

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^{1/} Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17), paras. 223-224.

^{2/} Ibid., Fifty-second Session, Supplement No. 17 (A/52/17), paras. 249-251.

^{3/} Ibid., Fifty-third Session, Supplement No. 17 (A/53/17), paras. 207-211.