

For participants only  
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**United Nations Commission on  
International Trade Law**  
Working Group on Electronic Commerce  
Forty-third session  
New York, 15-19 March 2004

## **Draft report of the Working Group on Electronic Commerce on the work of its forty-third session**

### **I. Introduction: Previous deliberations of the Working Group**

1. At its thirty-fourth session (Vienna, 25 June-13 July 2001), the Commission endorsed a set of recommendations for future work that had been made by the Working Group on Electronic Commerce at its thirty-eighth session (New York, 12-23 March 2001). They included, among other topics, the preparation of an international instrument dealing with selected issues on electronic contracting and a comprehensive survey of possible legal barriers to the development of electronic commerce in international instruments.

2. The Working Group's deliberations on those topics began at its thirty-ninth session (New York, 11-15 March 2002), when the Working Group considered a note by the Secretariat that contained, as its annex I, an initial draft tentatively entitled "Preliminary Draft Convention on [International] Contracts Concluded or Evidenced by Data Messages" (A/CN.9/WG.IV/WP.95). The Working Group's deliberations are reflected in the report of its work at that session (A/CN.9/509). The Working Group resumed its consideration of the preliminary draft convention at its fortieth session (Vienna, 14-18 October 2002), when it concluded its initial review of the text (see A/CN.9/527, paras. 72-126). The Working Group requested the Secretariat to prepare a revised version of the preliminary draft convention for consideration by the Working Group at its forty-first session. The Working Group considered the revised version of the preliminary draft convention (contained in A/CN.9/WG.IV/WP.100) at its forty-first session (New York, 5-9 May 2003), when it reviewed articles 1-11 (see A/CN.9/528, paras. 26-151). The Secretariat was requested to prepare a further revised version of the preliminary draft convention at its forty-second session. The Working Group, at its forty-second session (Vienna, 17-21 November 2003) considered the newly revised text of the preliminary draft convention (A/CN.9/WG.IV/WP.103, annex I). The Working Group reviewed

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articles 8-15 and requested a number of changes in connection therewith (see A/CN.9.546, paras. 39-135).

## II. Organization of the session

3. The Working Group on Electronic Commerce, which was composed of all States members of the Commission, held its forty-third session in New York, from 15 to 19 March 2004. The session was attended by representatives of the following States members of the Working Group: Austria, Brazil, Cameroon, Canada, China, Colombia, Fiji, France, Germany, Honduras, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Mexico, Morocco, Russian Federation, Serbia and Montenegro, Singapore, Spain, Sudan, Sweden, Uganda and United States of America.

4. The session was attended by observers from the following States: Belarus, Belgium, Botswana, Cuba, Czech Republic, Finland, Ghana, Indonesia, Ireland, Kuwait, Lesotho, Libyan Arab Jamahiriya, Madagascar, Mongolia, New Zealand, Peru, Philippines, Poland, Qatar, Republic of Korea, Saudi Arabia, Senegal, Syrian Arab Republic, Turkey, United Republic of Tanzania, Venezuela and Viet Nam.

5. The session was also attended by the Holy See as a non-member State maintaining observer mission at Headquarters.

6. The session was further attended by observers from the following international organizations: (a) organizations of the United Nations system: the World Bank, the World Intellectual Property Organization (WIPO), United Nations Economic Commission for Europe; (b) intergovernmental organizations: Asian-African Legal Consultative Organization, Commonwealth Secretariat, European Commission and the Intern-Parliamentary Assembly of Member Nations of the CIS; (c) non-governmental organizations invited by the Commission: American Bar Association (ABA), Center for International Legal Studies (CILS), International Chamber of Commerce (ICC), International Law Institute (ILI), International Union of Latin Notaries (UINL), the Association of the Bar of the City of New York, the European Law Students Association (ELSA) and the Union Internationale des Avocats.

7. The Working Group elected the following officers:

*Chairman:* Jeffrey CHAN Wah Teck (Singapore);  
*Rapporteur:* Claudia GONZALEZ LOZANO (Mexico).

8. The Working Group had before it a newly revised version of the preliminary draft convention, which reflected the deliberations at the Working Group's forty-second session (A/CN.9/WG.IV/WP.108).

9. The Working Group adopted the following agenda:

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Electronic contracting: provisions for a draft convention.
5. Other business.
6. Adoption of the report.

### **III. Summary of deliberations and decisions**

10. The Working Group resumed its deliberations on the newly revised preliminary draft convention contained in annex I of the note by the Secretariat A/CN.9/WG.IV/WP.108. The decisions and deliberations of the Working Group with respect to the draft convention are reflected in chapter IV below. The Secretariat was requested to prepare a revised version of the preliminary draft convention, based on those deliberations and decisions for consideration by the Working Group at its forty-fourth session, tentatively scheduled to take place in Vienna from 18 to 22 October 2004.