



UNITED NATIONS COMMISSION
ON INTERNATIONAL TRADE LAW
Working Group on
Electronic Data Interchange
Thirtieth session
Vienna, 26 February-8 March 1996

PROVISIONAL AGENDA

1. Election of officers
2. Adoption of the agenda
3. Planning of future work on the legal aspects of
Electronic Data Interchange (EDI): discussion on negotiability
and transferability of rights in goods (maritime bills of lading)
4. Preliminary discussion of other possible topics for future work:
issues of registration, incorporation by reference, code of
conduct for service providers
5. Other business
6. Adoption of the report

Notes on the provisional agenda

Pursuant to a decision taken by the Commission at its twenty-fifth session ¹, in 1992, the Working Group on Electronic Data Interchange devoted its twenty-fifth to twenty-eighth sessions to the preparation of the draft UNCITRAL Model Law on Legal Aspects of Electronic Data Interchange and Related Means of Communication (reports of those sessions are found in A/CN.9/373, 387, 390 and 406). The text of the draft Model Law, together

¹ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 17 (A/47/17), paras. 140-148.

with a compilation of comments by Governments and interested organizations (A/CN.9/409 and Add. 1 to 3) was placed before the Commission at its twenty-eighth session, in 1995, for review and adoption.

At its twenty-ninth session, the Working Group considered a draft Guide to Enactment of the Model Law (the report of that session is found in A/CN.9/407). The Working Group also considered in the context of a general debate on possible future work the topics of incorporation by reference and negotiability or transferability of rights in goods as set forth in the proposals by the observer for the International Chamber of Commerce, the United Kingdom of Great Britain and Northern Ireland and the United States of America (A/CN.9/WG.IV/WP.65, WP.66 and WP.67). After discussion, the prevailing view was that the issue was not mature for inclusion in the Model Law and deserved further study. Considerable support was expressed in favour of the view that the issue should be addressed in the context of future work on negotiability of rights in goods (A/CN.9/407, paras. 100 to 105). As to the issues of negotiability or transferability of rights in goods in an electronic environment, the Working Group requested the Secretariat to prepare a study that would discuss those issues in the context of transport documents, with particular reference to maritime bills of lading, for consideration at a future session of the Working Group (A/CN.9/407, paras. 106 to 118).

At its twenty-eighth session, in 1995, the Commission adopted the text of articles 1 and 3 to 11 of the draft Model Law.² At the close of the discussion on draft article 11, the Commission noted that it had not completed its consideration of the draft Model Law and decided to place the draft Model Law, together with the draft Guide to Enactment of the Model Law, on the agenda of its twenty-ninth session to be held in New York from 28 May to 14 June 1996. It was agreed that the discussion should be resumed at the twenty-ninth session of the Commission with a view to finalizing the text of the Model Law and adopting the Guide to Enactment at that session.

With respect to future work in the area of electronic data interchange, the Commission noted that, at its twenty-seventh session, in 1994, general support had been expressed in favour of a recommendation made by the Working Group at its twenty-seventh session that preliminary work should be undertaken on the issue of negotiability and transferability of rights in goods in a computer-based environment as soon as the preparation of the Model Law had been completed. It was also noted that, on that basis, a preliminary debate with respect to future work to be undertaken in the field of electronic data interchange had been held in the context of the twenty-ninth session of the Working Group.

With regard to the scope of future work, one suggestion made at the twenty-ninth session of the Working Group was that the work should cover multimodal transport documents of title. Another suggestion was that, while work could include transport documents of title in general, particular emphasis should be placed on maritime bills of lading since the maritime transport area was the area in which EDI was predominantly practised and in which unification of law was urgently needed in order to remove existing

² For the report of the discussion of the draft Model Law, see Official Records of the General Assembly, Fiftieth Session, Supplement No. 17 (A/50/17), paras. 202 to 306. The text of the draft Model Law is contained in annex 2 to that report.

impediments and to allow the practice to develop. The Working Group had come to the conclusion that future work could focus on EDI transport documents, with particular emphasis on maritime electronic bills of lading and the possibility of their use in the context of the existing national and international legislation dealing with maritime transport. After having established a set of rules for the maritime bills of lading, the Commission could examine the question whether issues arising in multimodal transport could be addressed by the same set of rules or whether specific rules would need to be elaborated.

After discussion, the Commission endorsed the recommendation made by the Working Group that the Secretariat should be entrusted with the preparation of a background study on negotiability and transferability of EDI transport documents, with particular emphasis on EDI maritime transport documents, taking into account the views expressed and the suggestions made at the twenty-ninth session of the Working Group with regard to the scope of future work and the issues that could be addressed. A number of other topics were suggested for inclusion in the study, including a report on the potential problems for the use of EDI in maritime transport under existing international instruments and a report on the work undertaken by other organizations in related areas of work. It was agreed that particular emphasis should be put in the study on work currently undertaken by other international organizations, such as the Comité Maritime International (CMI) or the European Union, and to the BOLERO project. In that connection, the view was expressed that work undertaken within CMI, or the BOLERO project, were aimed at facilitating the use of EDI transport documents but did not, in general, deal with the legal effects of EDI transport documents. It was stated that particular attention should be given in the study to the ways in which future work by UNCITRAL could bring legal support to the new methods being developed in the field of electronic transfer of rights. The Commission expressed the wish that the requested background study, for the preparation of which the cooperation of other interested organizations such as CMI might be sought, would provide the basis on which to make an informed decision as to the feasibility and desirability of undertaking work in the area.³

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

Algeria, Argentina, Australia, Austria, Botswana, Brazil, Bulgaria, Cameroon, Chile, China, Ecuador, Egypt, Finland, France, Germany, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Mexico, Nigeria, Poland, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sudan, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Uruguay.

Item 1. Election of officers

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

³ Ibid., paras. 307 to 309.

Item 3. Planning of future work on the legal aspects of Electronic Data Interchange (EDI): discussion on negotiability and transferability of rights in goods (maritime bills of lading)

The Working Group will have before it a note by the Secretariat discussing the issues of negotiability and transferability of rights in goods in an EDI context (A/CN.9/WG.IV/WP.69) and containing suggestions for provisions to be added to the text of the draft Model Law regarding those issues. The Working Group may wish to use the note as a basis for its deliberations.

The following documents will be made available at the session:

- (a) Note by the Secretariat outlining possible uniform rules on the legal aspects of electronic data interchange (EDI) (A/CN.9/WG.IV/WP.55);
- (b) Report of the Working Group on Electronic Data Interchange on the work of its twenty-fifth session (A/CN.9/373);
- (c) Note by the Secretariat containing a first draft of uniform rules on the legal aspects of EDI and related means of trade data communication (A/CN.9/WG.IV/WP.57);
- (d) Note by the Secretariat containing the text of a proposal by the United Kingdom of Great Britain and Northern Ireland (A/CN.9/WG.IV/WP.58);
- (e) Report of the Working Group on Electronic Data Interchange on the work of its twenty-sixth session (A/CN.9/387);
- (f) Note by the Secretariat containing revised articles of draft uniform rules on the legal aspects of EDI and related means of data communication (A/CN.9/WG.IV/WP.60);
- (g) Report of the Working Group on Electronic Data Interchange on the work of its twenty-seventh session (A/CN.9/390);
- (h) Note by the Secretariat containing newly revised draft model statutory provisions on the legal aspects of EDI and related means of data communication: articles 1 to 10 (A/CN.9/WG.IV/WP.62);
- (i) Report of the Working Group on Electronic Data Interchange on the work of its twenty-eighth session (A/CN.9/406);
- (j) Note by the Secretariat containing a draft guide to enactment of the draft UNCITRAL Model Law on Legal Aspects of Electronic Data Interchange (EDI) and Related Means of Communication (A/CN.9/WG.IV/WP.64);
- (k) Note by the Secretariat containing a proposal by the Observer for the International Chamber of Commerce (A/CN.9/WG.IV/WP.65);

(l) Note by the Secretariat containing a proposal by the United Kingdom of Great Britain and Northern Ireland (A/CN.9/WG.IV/WP.66);

(m) Note by the Secretariat containing a proposal by the United States of America (A/CN.9/WG.IV/WP.67).

Item 4. Preliminary discussion of other possible topics for future work: issues of registration incorporation by reference, code of conduct for service providers

The Working Group may wish to have a preliminary exchange of views on possible additional topics that might be considered for future work upon completion of the Model Law. At the twenty-seventh session of the Working Group, there was general agreement that the future project should give particular consideration to the use of registries and the possibility of performing such functions as registration and transfer of rights at an international level (A/CN.9/390, para. 157). As to incorporation by reference, it was agreed at the twenty-ninth session of the Working Group that the issue might need to be further considered in the context of future work (A/CN.9/407, para. 103). With respect to the relationships between EDI users and service providers, the Commission at its twenty-seventh session, in 1994, was of the view that, at least at that time, the liability of service providers was better dealt with in communication agreements.⁴ In view of the recent development of open communication systems operating in the absence of any communication agreement between the users and the service provider, the Working Group may wish to discuss the desirability and feasibility of undertaking the preparation of model rules of conduct for service providers.

Item 6. Adoption of the report

The Working Group may wish to adopt, at the close of its session, a report for submission to the twenty-ninth session of the Commission (to be held from 28 May to 14 June 1996 in New York).

Meetings

The session of the Working Group will take place from 26 February to 8 March 1996 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, 7 March, 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, 26 February 1996, when the session will commence at 10:00.

⁴ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17 (A/49/17), para. 201