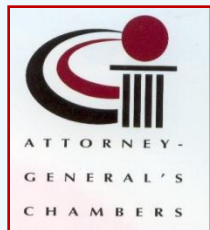


**COLLOQUIUM ON ELECTRONIC COMMERCE**  
**14-16 Feb 2011**

# **UNCITRAL and Electronic Commerce**



**JEFFREY, WAH-TECK, CHAN, SC**  
*Chairman, UNCITRAL Working Group on Electronic Commerce  
(2001-2004)*  
*Deputy Solicitor-General, Singapore*

# **UNCITRAL**



- **Established by General Assembly in 1966**
  - recognized that disparities in national laws governing international trade created obstacles to the flow of trade
  - vehicle by which the United Nations could play a more active role in reducing or removing these obstacles
- **Mandate: to further the progressive harmonization and unification of the law of international trade**
- **Core legal body of the United Nations system in the field of international trade law.**

# **UNCITRAL PRODUCTS**

- **Conventions**
- **Model Laws**
- **Legislative Guides**
- **Recent trends emphasises soft law, e.g. guides, over hard-law, e.g. conventions**

- **Questionable whether soft-law outcomes are aligned with mission of UNCITRAL**
- **Conventions / Model Laws are most successful of UNCITRAL outcomes e.g.**
  - *UN Convention of the International Sales of Goods (“CISG”)*
  - *UN Convention on Carriage of Goods by Sea (“Hamburg Rules”)*
  - *UNCITRAL Arbitration Rules*
  - *Model Law on Arbitration*
  - *Model Law on Electronic Commerce.*

# **ELECTRONIC COMMERCE**

- Tremendous growth in use of electronic commerce for domestic transactions
- Increasingly important vehicle for international trade
- Enables borderless trading environment
- Removing legal obstacles to electronic commerce facilitates international trade
- Crucial aspect of UNCITRAL mission.

# **UNCITRAL AND ELECTRONIC COMMERCE**

- **UNCITRAL pioneered work on legal issues of electronic transactions**
  - 1985 Recommendations on Legal Value of Electronic Records
- **Continuing work:**
  - 1996 Model Law on Electronic Commerce
  - 2001 Model Law on electronic Signatures
  - 2005 UN Electronic Communications Communication
- **UNCITRAL is leading international agency on legal issues relating to electronic commerce**
  - Repository of international expertise on legal issues relating to electronic commerce.

# **DEVELOPMENTS SINCE 2005**

- **UNCITRAL Working Group on Electronic Commerce has not convened since 2005**
- **Since 2005, numerous changes in technology as well as practices of electronic commerce**
  - e.g. advent of MCommerce
- **New legal issues have arisen and must be addressed**
  - Inc. considerations of privacy and human rights

# **ISSUES FOR UNCITRAL**

- Whether to resume work and thus leadership in addressing legal issues in electronic commerce
- If UNCITRAL does not do so, then other equally competent agencies may take up the challenge
  - But may be led by private and commercial rather than public interests
- UNCITRAL would be forfeiting its leading role in this area
  - Loss of UNCITRAL's institutional expertise in area of electronic commerce.



# **CONCLUSION**



# **UNCITRAL COLLOQUIUM ON ELECTRONIC COMMERCE**

***14-16 Feb 2011***