



UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL)

Recommendation on the Legal Value of Computer Records (1985)

At its eighteenth session (1985), the Commission had before it a report by the Secretariat entitled "Legal value of computer records" (A/CN.9/265). That report came to the conclusion that, on a global level, there were fewer problems in the use of data stored in computers as evidence in litigation than might have been expected. It noted that a more serious legal obstacle to the use of computers and computer-to-computer telecommunications in international trade arose out of requirements that documents had to be signed or be in paper form. After discussion of the report, the Commission adopted the following recommendation, which expresses some of the principles on which the Model Law is based:

"The United Nations Commission on International Trade Law,

Noting that the use of automatic data processing (ADP) is about to become firmly established throughout the world in many phases of domestic and international trade as well as in administrative services,

Noting also that legal rules based upon pre-ADP paper-based means of documenting international trade may create an obstacle to such use of ADP in that they lead to legal insecurity or impede the efficient use of ADP where its use is otherwise justified,

Noting further with appreciation the efforts of the Council of Europe, the Customs Co-operation Council and the United Nations Economic Commission for Europe to overcome obstacles to the use of ADP in international trade arising out of these legal rules,

Considering at the same time that there is no need for a unification of the rules of evidence regarding the use of computer records in international trade, in view of the experience showing that substantial differences in the rules of evidence as they apply to the paper-based system of documentation have caused so far no noticeable harm to the development of international trade,

"*Considering* also that the developments in the use of ADP are creating a desirability in a number of legal systems for an adaptation of existing legal rules to these developments, having due regard, however, to the need to encourage the employment of such ADP means that would provide the same or greater reliability as paper-based documentation,

"1. *Recommends* to Governments:

"(a) to review the legal rules affecting the use of computer records as evidence in litigation in order to eliminate unnecessary obstacles to their admission, to be assured that the rules are consistent with developments in technology, and to provide appropriate means for a court to evaluate the credibility of the data contained in those records;

"(b) to review legal requirements that certain trade transactions or trade related documents be in writing, whether the written form is a condition to the enforceability or to the validity of the transaction or document, with a view to permitting, where appropriate, the transaction or document to be recorded and transmitted in computer-readable form;

"(c) to review legal requirements of a handwritten signature or other paper-based method of authentication on trade related documents with a view to permitting, where appropriate, the use of electronic means of authentication;

"(d) to review legal requirements that documents for submission to governments be in writing and manually signed with a view to permitting, where appropriate, such documents to be submitted in computer-readable form to those administrative services which have acquired the necessary equipment and established the necessary procedures;

"2. *Recommends* to international organizations elaborating legal texts related to trade to take account of the present Recommendation in adopting such texts and, where appropriate, to consider modifying existing legal texts in line with the present Recommendation." [1](#)

That recommendation was endorsed by the General Assembly in resolution 40/71, paragraph 5(b), of 11 December 1985 as follows:

"The General Assembly,

"... Calls upon Governments and international organizations to take action, where appropriate, in conformity with the Commission's recommendation so as to ensure legal security in the context of the widest possible use of automated data processing in international trade; ...". [2](#)

- 1 *Official Records of the General Assembly, Fortieth Session, Supplement No. 17 (A/40/17)*, para. 360.
- 2 Resolution 40/71 was reproduced in *United Nations Commission on International Trade Law Yearbook*, 1985, vol. XVI, Part One, D. (United Nations publication, Sales No. E.87.V.4).