Annex IV

UNCITRAL Model Law on Automated Contracting

Article 1
Definitions

1.   For the purposes of this Law:

(a)   "Automated system" means a computer system that is capable of carrying out actions without the necessary review or intervention of a natural person;

(b)   "Data message" means information generated, sent, received or stored by electronic, magnetic, optical or similar means.

2.   An automated system may be programmed to operate in a deterministic or non-deterministic manner.

Article 2
Scope of application

1.   This Law applies to the use of automated systems to form or to perform contracts, including by:

(a)   Generating or otherwise processing data messages that constitute an action in connection with the formation of contracts, such as an offer or acceptance of an offer;

(b)   Generating or otherwise processing data messages that constitute an action in connection with the performance of a contract, such as its modification or termination.

2.   Nothing in this Law affects the application of any rule of law that may govern the design, commissioning, operation or use of automated systems.

Article 3
Interpretation

1.   In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

2.   Questions concerning matters governed by this Law which are not expressly settled in it are to be settled in conformity with the general principles on which this Law is based.

Article 4
Technology neutrality

Nothing in this Law requires the use of an automated system or a particular method in automated systems to form or perform contracts.

Article 5
Legal recognition of automated contracting

1.   A contract formed using an automated system shall not be denied validity or enforceability on the sole ground that no natural person reviewed or intervened in any action carried out in connection with the formation of the contract.

[2.   A contract performed using an automated system shall not be denied validity or enforceability on the sole ground that no natural person reviewed or intervened in any action carried out in connection with the performance of the contract.][1]

3.   An action carried out by an automated system in connection with the formation or performance of a contract shall not be denied legal effect, validity or enforceability on the sole ground that no natural person reviewed or intervened in the action.

Article 6
Legal recognition of contracts in computer code and use of dynamic information in automated contracting

1.   A contract shall not be denied validity or enforceability on the sole ground that the terms of the contract are contained in data messages in the form of computer code.

2.   A contract shall not be denied validity or enforceability on the sole ground that the terms of the contract incorporate information from a data source that provides information that changes periodically or continuously.

3.   An action in connection with the formation of a contract shall not be denied legal effect, validity or enforceability on the sole ground that the action involves processing data messages containing information from a source that provides information that changes periodically or continuously.

Article 7
Attribution of actions carried out by automated systems

1.   As between the parties to a contract, an action carried out by an automated system is attributed in accordance with a procedure agreed to by the parties.

2.   If paragraph 1 does not apply, an action carried out by an automated system is attributed to the person who uses the system for that purpose.

3.   Attribution of an action carried out by an automated system shall not be denied on the sole ground that the outcome was unexpected.

4.   Nothing in this article affects the application of any rule of law that may govern the legal consequences of attributing an action carried out by an automated system to a person.

[Article 8
Unexpected actions carried out by automated systems

1.   Unless otherwise agreed by the parties, where an action carried out by an automated system is attributed to a party to a contract, the other party to the contract is not entitled to rely on that action if, in the light of all the circumstances:

      (a)   The party to which the action is attributed could not reasonably have expected the action; and

      (b)   The other party knew or could reasonably be expected to have known that the party to which the action is attributed did not expect the action.

2.   Nothing in this article affects the application of any rule of law or agreement of the parties that may govern the legal consequences of an action carried out by an automated system.][2]

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[1] States that wish to extend the scope of article 5 to cover contracts that are performed using an automated system may wish to enact this provision.

[2] This provision is included for States wishing to enact one or more specific provisions addressing unexpected actions carried out by automated systems.

Article 9
Information requirements

Nothing in this Law affects the application of any rule of law that may require a person to disclose information on the design, operation or use of an automated system, or provides legal consequences for failing to do so or for disclosing inaccurate, incomplete or false information.

Article 10
Non-avoidance

Unless otherwise provided by law, a party shall not be relieved from the legal consequences of its failure to comply with a rule of law on the sole ground that it used an automated system.