



General Assembly

Distr.: Limited
9 September 2003

Original: English

**United Nations Commission
on International Trade Law**
Working Group IV (Electronic Commerce)
Forty-second session
Vienna, 17-21 November 2003

Legal aspects of electronic commerce

Electronic contracting: provisions for a draft convention

Comments by the International Chamber of Commerce

Note by the Secretariat

The Secretariat has received comments on the Working's Group's consideration of a possible new international instrument on electronic contracting by a task force established by the International Chamber of Commerce. The text of those comments is reproduced in the annex to this note in the form in which it was received by the Secretariat.





International Chamber of Commerce

The world business organization

Department of Policy and Business Practices

Commission on Commercial Law and Practice Commission on E-Business, IT and Telecoms

Task Force on Electronic Contracting

ICC E-terms 2004 and UNCITRAL

1. Introduction

The International Chamber of Commerce (ICC) is grateful to UNCITRAL for the invitation to provide views regarding current UNCITRAL proposals for the legal framework for electronic contracting.

At the latest UNCITRAL Working Group IV Session that took place in New York from 5-9 May 2003, ICC submitted to UNCITRAL a statement that ICC will draft a self-regulatory legal instrument based on an assessment of business' practices and needs in relation to their electronic contracting. ICC's proposal is available as UN Document A/CN.9/WG.IV/WP.101.

This document outlines the latest developments and progress ICC has made since the May 2003 Session. ICC looks forward to reporting in greater detail to the UNCITRAL Working Group at its next Session that takes place from 17-21 November in Vienna.

2. ICC Task Force on Electronic Contracting

In order to focus the work appropriately, ICC has created a Task Force on Electronic Contracting. The task force is co-chaired by:

- **Professor Charles Debattista** (UK), Professor of Commercial Law, University of Southampton; and chair of ICC Task Force on Incoterms
- **Christopher Kuner** (Belgium), Partner, Hunton & Williams; and chair of ICC Task Force on International Harmonization Efforts

Members of the task force includes experts from companies of all sizes, sectors and many countries from all parts of the world, a few of which include Canada, China, France, Germany, Mexico, Sweden, Switzerland, Syria, Venezuela and UK.

The Task Force is a joint initiative between two ICC Commissions, namely the ICC Commission on Commercial Law and Practice (CLP), and ICC Commission on E-Business, IT and Telecoms (EBITT).

International Chamber of Commerce

38, Cours Albert 1er, 75008 – Paris, France
Telephone +33 1 49 53 28 28 Fax +33 1 49 53 28 59
Web site www.iccwbo.org E-mail icc@iccwbo.org

8 September 2003 JA/ef
Document 460-22/2



3. ICC E-terms 2004

The ICC Task Force on Electronic Contracting has started drafting ICC's instrument called E-terms 2004. The draft will be circulated to ICC members and national committees in more than 130 countries by the end of September. E-terms 2004 is expected to be finalized and adopted by ICC's Executive Board in the first half of 2004. The Draft E-terms 2004 will be presented in greater detail at the next UNCITRAL WG IV Session that takes place from 17-21 November 2003 in Vienna.

ICC E-terms 2004 will be focused and pragmatic, reflect practical problems and solutions, and take into account the different needs of large and small companies. E-terms 2004 will be a voluntary instrument not conflicting with party autonomy. The scope of E-terms 2004 is based on a careful assessment of the practices and needs of companies of various sectors and sizes. E-terms 2004 will consist of model clauses and a guidance document.

ICC E-terms 2004 has been received with great interest from the press, and has been the subject of a number of articles including *Legal Times*, 21 July 2003 "Clearing up e-contracting issues", and the cover story of *Washington Internet Daily*, 25 August 2003 "Industry Group Urges Self-Regulation of E-Contracts".

ICC looks forward to presenting E-terms 2004 to the members of UNCITRAL Working Group IV in November 2003, and working with UNCITRAL on these most important issues for global business.

Contact

For further information about E-terms 2004, please contact:

Jonas Astrup, Policy Manager
ICC Commission on Commercial Law and Practice (CLP)
ICC Commission on Financial Services and Insurance
E-mail: jonas.astrup@iccwbo.org -- Phone: +33 1 49 53 28 26