

U.N. CONVENTION ON THE USE OF ELECTRONIC  
COMMUNICATIONS IN INTERNATIONAL CONTRACTS

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MESSAGE

FROM

**THE PRESIDENT OF THE UNITED STATES**

TRANSMITTING

THE UNITED NATIONS CONVENTION ON THE USE OF ELECTRONIC COMMUNICATIONS IN INTERNATIONAL CONTRACTS (CONVENTION), DONE AT NEW YORK ON NOVEMBER 23, 2005, AND ENTERED INTO FORCE ON MARCH 1, 2013



FEBRUARY 10, 2016.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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U.S. GOVERNMENT PUBLISHING OFFICE



## LETTER OF TRANSMITTAL

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THE WHITE HOUSE, *February 10, 2016.*

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, subject to certain declarations and understandings, I transmit herewith the United Nations Convention on the Use of Electronic Communications in International Contracts (Convention), done at New York on November 23, 2005, and entered into force on March 1, 2013. The report of the Secretary of State, which includes an overview of the Convention, is enclosed for the information of the Senate.

The Convention sets forth modern rules validating and facilitating the use of electronic communications in international business transactions. The Convention will promote legal uniformity and predictability, and thereby lower costs, for U.S. businesses engaged in electronic commerce.

The Convention's provisions are substantively similar to State law enactments in the United States of the 1999 Uniform Electronic Transactions Act (UETA), and to the governing Federal law, the Electronic Signatures in Global and National Commerce Act, Public Law 106-229 (June 30, 2000). Consistent with the Federal law, all States have enacted laws containing the same basic rules on electronic commerce, whether based on UETA or on functionally equivalent provisions. The Federal statute allows States that enact UETA, or equivalent standards, to be subject to their State law, and not the corresponding provisions of the Federal law.

The United States proposed and actively participated in the negotiation of the Convention at the United Nations Commission on International Trade Law. Accession by the United States can be expected to encourage other countries to become parties to the Convention, and having a greater number of parties to the Convention should facilitate electronic commerce across borders.

The Convention would be implemented through Federal legislation to be proposed separately to the Congress by my Administration.

The Convention has been endorsed by leading associations and organizations in this area, including the American Bar Association and the United States Council on International Business. The United States Government worked closely with the Uniform Law Commission regarding the negotiation and domestic implementation of the Convention.

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I recommend, therefore, that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification, subject to certain understandings and declarations.

BARACK OBAMA.

## LETTER OF SUBMITTAL

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DEPARTMENT OF STATE,  
*Washington, October 16, 2014.*

The PRESIDENT,  
*The White House.*

THE PRESIDENT: I have the honor to submit to you, with a view to its transmittal to the Senate for advice and consent to accession, the United Nations Convention on the Use of Electronic Communications in International Contracts, subject to the declarations and understandings set forth in the enclosed Overview of the Convention. The Convention was adopted in New York on November 23, 2005, and entered into force on March 1, 2013.

As a leader in electronic commerce, the United States proposed and participated in the negotiation of this treaty at the United Nations Commission on International Trade Law. The provisions of the Convention are similar to U.S. uniform state law enactments and the applicable federal statute on electronic signatures and records.

Global electronic commerce has expanded in recent years but the absence of generally agreed upon rules among countries limits that growth by unnecessarily raising risks and costs for businesses around the world. The Convention promotes the use of electronic communications in international business contracts, including by setting forth some basic rules governing their use, thereby enhancing legal clarity and predictability for transacting parties.

At the same time, nothing in the Convention requires transacting parties to use or accept electronic communications or records if they choose not to do so. Consistent with currently applicable U.S. domestic laws, the Convention allows full autonomy of transacting parties so that they may exclude the application of the Convention or vary from its terms.

The Convention has been endorsed by leading U.S. associations and organizations in this area, including the American Bar Association and the United States Council on International Business. We consulted closely with the Uniform Law Commission regarding the negotiation and domestic implementation of the Convention.

The treaty would be implemented by federal legislation to be proposed separately to the Congress by the Administration. The treaty would not be self-executing.

I recommend, therefore, that you transmit the Convention to the Senate for advice and consent to accession, subject to the declarations and understandings set forth in the enclosed Overview of the Convention.

Respectfully submitted.

JOHN F. KERRY.

Enclosure: As stated.

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**Executive Summary**  
**United Nations Convention on the Use of Electronic Communications in International Contracts**

The 2005 United Nations Convention on the Use of Electronic Communications in International Contracts (“Convention”) sets forth basic rules validating and facilitating the use of electronic communications in international business transactions. These rules also remove common obstacles that arise from provisions in certain older treaties that were drafted before the widespread use of electronic means by applying the Convention to certain electronic communications to which other international trade law treaties apply. With two minor exceptions, the Convention is substantively similar to both state law enactments and the governing federal law in the United States.

The United States has taken a leading role in developing new computer-era business transaction rules, and actively supported the development of the 1996 Model Law on Electronic Commerce produced by the United Nations Commission on International Trade Law (UNCITRAL). That 1996 Model Law then served as the basis for uniform state law enactments within the United States, as well as a later federal statute governing electronic communications in commerce. The United States proposed, and actively participated in, the negotiation of this Convention at UNCITRAL, since a treaty commitment by other countries would promote electronic commerce across borders.

The scope of the Convention is carefully defined. The Convention applies only to business contracts between parties having places of business in different countries. Excluded from the Convention are consumer contracts; certain specialized contracts, such as those related to securities and other financial transactions; and instruments that transmit ownership or value. Domestic transactions between parties in the same country are not covered. The Convention also permits each country to exclude any additional types of transactions that the country declares will be excluded when the Convention is applied by that country.

The Convention applies to contracts between parties located in two different countries, but it is not necessary for both of those countries to be States Parties to the Convention. The Convention applies if the law applicable to the electronic communication is the law of a State Party to the Convention, if the transacting parties have chosen as the law applicable to their communication the law of a State Party, or if the parties have entered into an agreement to apply the substantive provisions of the Convention itself.

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With two minor exceptions, the Convention's provisions are substantively similar to uniform state law in the United States, namely the Uniform Electronic Transactions Act (UETA), and the applicable federal law, the Electronic Signatures in Global and National Commerce Act (E-Sign), Pub. Law 106-229 (June 30, 2000), 15 U.S.C. 7001 et seq. Forty-seven states, the District of Columbia, the Virgin Islands, and Puerto Rico have already enacted UETA, and three states have enacted similar rules on electronic commerce by statute or regulation. (UETA is pending adoption in one of those three states.) The federal statute allows states that enact and implement UETA, or some statute containing equivalent standards, to be subject to their state law, and not the corresponding provisions of the federal law.

Accession by the United States is expected to provide an impetus for ratification of the Convention by other countries. By elaborating a set of common ground rules, the Convention helps reduce some of the risks and uncertainties associated with cross-border electronic transactions and thereby promotes international trade.

The treaty would be implemented through federal legislation to be proposed separately to the Congress by the Administration.

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## OVERVIEW OF THE CONVENTION

**I. Background and Purpose**

The 2005 United Nations Convention on the Use of Electronic Communications in International Contracts (“Convention”) sets forth basic rules validating and facilitating the use of electronic communications and records in international business transactions. It also removes potential obstacles to electronic communications that may arise from formal written requirements in certain older treaties concluded before the widespread use of electronic means. The Convention, which would be implemented by federal legislation, is substantively similar to uniform state enactments of the Uniform Electronic Transactions Act and the relevant federal statute in the United States, the 2000 Electronic Signatures in Global and National Commerce Act.

The Convention applies to business contracts involving parties in different countries. It does not deal with consumer transactions or with specialized transactions such as those involving securities or foreign exchange. The Convention also allows countries that become party to the treaty to exclude certain categories of transactions from the scope of the Convention.

The Convention, which was proposed by the United States, was negotiated at the UN Commission on International Trade Law (“UNCITRAL”) by more than 50 countries with input from a number of international bodies and representatives from the private sector and other NGOs. The Convention was adopted by the UN General Assembly on November 23, 2005. It entered into force on March 1, 2013.

The Convention builds on the 1996 UNCITRAL Model Law on Electronic Commerce (the “1996 Model Law”). The United States was actively involved in the development of the 1996 Model Law, which has served as a basis for current U.S. domestic law. In particular, the Model Law is embodied in the Uniform Electronic Transactions Act (“UETA”) adopted in 1999 by the National Conference of Commissioners on Uniform State Law, also known as the Uniform Law Commission (“ULC”).

The 1996 Model Law and UETA in turn formed the basis for the current federal legislation, the Electronic Signatures in Global and National Commerce Act (the “E-Sign Act”), Pub. L. 106-229 (June 30, 2000), 15 U.S.C. § 7001 *et seq.* Among other things, the federal statute provides generally that with respect to any transaction in or affecting interstate or foreign commerce, a signature, contract, or

record may not be denied legal validity solely because it is in electronic form, and that a contract relating to such a transaction may not be denied validity solely because an electronic signature or record was used in its formation. These same principles are embodied in the Convention.

The federal statute defers to the provisions of state law when states adopt legislation that (a) constitutes an enactment or adoption of UETA or (b) specifies alternative procedures or requirements for the use or acceptance of electronic records or signatures, consistent with the principles of the federal statute. Forty-seven out of 50 states have already adopted UETA, as has the District of Columbia, Puerto Rico, and the Virgin Islands. Two states have adopted rules similar to those in UETA by statute or regulation, and UETA is pending before one state's legislature.

In addition, § 301 of the E-Sign Act authorized the Secretary of Commerce to promote internationally the acceptance and use of electronic signatures in accordance with the relevant provisions of the 1996 Model Law and with certain principles supportive of electronic commerce. The provisions of the Convention are consistent with the policy set forth in the E-Sign Act.

## **II. Article-by-Article Summary of the Convention**

### *Commonly Used Terms*

“UETA” means the Uniform Electronic Transactions Act adopted in 1999 by the National Conference of Commissioners on Uniform State Law, also known as the Uniform Law Commission.

“E-Sign Act” means the federal Electronic Signatures in Global and National Commerce Act, Pub. L. 106-229 (June 30, 2000), 15 U.S.C. § 7001 et seq.

“UCC” or “Uniform Commercial Code” means Articles 1 through 9 of the 2013 Version of the Uniform Commercial Code, issued by the National Conference of Commissioners on Uniform State Law and the American Law Institute.

“UNCITRAL Explanatory Note” means the “Explanatory Note by the UNCITRAL Secretariat on the United Nations Convention on the Use of Electronic Communications in International Contracts.” The U.S. delegation and private sector representatives participated in the development of and approved the Explanatory Note. The United States has no objections to its content.

## PREAMBLE

The Preamble to the Convention reflects its basic purposes and principles, which are to enhance global electronic commerce, remove obstacles to the use of electronic communications in international contracts, promote the functional equivalence between electronic communications and paper media, promote “technology neutrality,” and support the freedom of parties to choose appropriate media and technologies. “Technology neutrality” in this context is understood to mean avoiding interpretations of statutory or other legal requirements that would require the use of a particular technology, or certain technologies, to comply with such requirements. As the UNCITRAL Explanatory Note underscores, the Preamble is a source of general principles on which the Convention is based, which, under Article 5 of the Convention, are relevant for the purposes of interpreting the Convention.

## CHAPTER I. SPHERE OF APPLICATION

### *Article 1. Scope of application*

Article 1 sets forth the scope of application of the Convention, which is subject to certain exclusions in Article 2 and in other provisions of the Convention.

Article 1(1) provides that the Convention will apply to the use of electronic communications only in connection with the formation or performance of contracts, and within that group only those entered into between parties whose businesses are in different countries.

Article 1(2) provides that, for purposes of Article 1(1), the fact that the parties have their places of business in different countries is to be disregarded whenever this fact does not appear either from the contract or from any dealings between the parties or from information disclosed by the parties at any time before or at the conclusion of the contract.

Article 1(3) provides that neither the nationality of the parties nor the civil or commercial character of the parties or of the contract is to be taken into consideration in determining the application of the Convention.

*Article 2. Exclusions*

Article 2(1)(a) provides that the Convention does not apply to electronic communications relating to consumer contracts, that is, contracts concluded for personal, family, or household purposes. This is the same formulation that is used to exclude consumer matters under other private commercial law treaties such as the Convention on Contracts for the International Sale of Goods, done at Vienna April 11, 1980 (to which the United States is a party).

Article 2(1)(b) excludes from the scope of application of the Convention certain types of transactions that are typically subject to specialized rules (*e.g.*, payment systems, clearance and settlement systems, foreign exchange transactions, and various securities transactions).

Article 2(2) excludes from the scope of application of the Convention certain instruments that pass title or rights to goods of monetary value, such as bills of lading, promissory notes, and other types of records.

Article 19 provides for further limitations on the scope of application of the Convention.

*Article 3. Party autonomy*

Article 3 provides that the parties to a transaction may exclude the application of this Convention or derogate from or vary the effect of any of its provisions. This Article was understood to apply to the substantive provisions of the Convention, namely Articles 7 through 14.

This provision, which is contained in other private international law treaties, recognizes that party autonomy is vital in contractual negotiations and should be recognized by the Convention. Further, as explained in the UNCITRAL Explanatory Note, "It was the understanding of UNCITRAL that derogation from the Convention did not need to be explicitly made but could also be made implicitly, for example, by parties agreeing to contract terms at variance with the provisions of the Convention."

In view of the importance of this provision to U.S. commercial interests, it is proposed that the United States include the following Understanding in the instrument of accession:

The United States understands that Article 3 means that parties to a contract to which the Convention applies may exclude the application of the Convention or derogate from, or vary the effect of, any of its provisions as it applies to them either expressly or by implication.

This Understanding would clarify that no particular formula or wording is necessary for transacting parties to exclude, derogate from, or vary the effects of, the Convention as applied to their transaction, and that parties could deviate from the Convention by implication, such as through negotiation of provisions in a contract or through an established course of dealing that differs from the Convention.

## CHAPTER II. GENERAL PROVISIONS

### *Article 4. Definitions*

Article 4 sets forth definitions of certain terms in the Convention, including matters such as “Communication,” “Originator,” “Addressee,” and “Place of Business.”

The definition of “place of business” excludes temporary locations and concepts such as a virtual place of business, *i.e.*, a commercial undertaking that has no fixed place of business or one that asserts that it operates only in electronic form without a physical location.

### *Article 5. Interpretation*

Article 5(1) provides that in the interpretation of the Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

Article 5(2) provides that matters governed by the Convention, which are not expressly settled in it, are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law. The term “rules of private international law” refers to what would be called “conflict of laws” rules in the United States.

The general principles underlying the Convention are found, in part, in the Preamble which, among other things, reflects the negotiators’ objective to enhance electronic commerce, remove obstacles to the use of electronic communications in

international contracts, promote functional equivalence between electronic communications and paper media, promote technology neutrality, and support the freedom of parties to choose appropriate media and technologies. These principles are comparable to the principles contained in the E-Sign Act §§ 101(a) and 301(a), 15 U.S.C. §§ 7001(a) and 7031(a), and in UETA § 6.

*Article 6. Location of the parties*

Article 6 sets forth rules to ascertain the “places of business” (defined in Article 4(h)) of the parties to a contract for the purpose of determining whether the Convention applies to a given contract or electronic communication.

Article 6(1) provides that a party’s place of business is presumed to be the location indicated by that party, unless another party demonstrates that the party making the indication does not have a place of business at that location.

Article 6(2) provides that if a party has not indicated a place of business and has more than one place of business, then the place of business for purposes of the Convention is that which has the closest relationship to the relevant contract, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract.

Article 6(3) provides that if a natural person does not have a place of business, reference is to be made to the person’s “habitual residence.” Such residence will be deemed their “place of business” for the purpose of determining whether the Convention applies.

Article 6(4) provides that a location is not a place of business merely because it is (a) where equipment and technology supporting an information system used by a party in connection with the formation of a contract are located; or (b) where the information system may be accessed by other parties.

Article 6(5) provides that the sole fact that a party makes use of a domain name or electronic mail address connected to a specific country does not create a presumption that its place of business is located in that country.

The default rules for party location set forth in Article 6 are consistent with the rules for determining a party’s location under § 15 of UETA.

*Article 7. Information requirements*

Articles 7, 13, and 14(2) highlight three areas of law that are not governed by the Convention and are therefore subject to other applicable law.

Article 7 provides that nothing in the Convention affects the application of any rule of law that may require parties to disclose their identities, places of business, or other information, or relieves a party from the legal consequences of making inaccurate, incomplete, or false statements in that regard. This provision preserves the application of statutes, regulations, or judicial precedents, as well as any procedural requirements, affecting information disclosure.

### CHAPTER III. USE OF ELECTRONIC COMMUNICATIONS IN INTERNATIONAL CONTRACTS

*Substantive electronic commerce rules*

Articles 8 and 9 contain the core of the Convention's substantive provisions that support the use of electronic communications and records in international contracts.

*Article 8. Legal recognition of electronic communications*

Article 8(1) provides that a communication or a contract shall not be denied validity or enforceability on the sole ground that it is in the form of an electronic communication. As explained in the UNCITRAL Explanatory Note, this provision is intended to ensure that there is no disparity of treatment between electronic communications and paper documents. It is similar to the provisions found in UETA § 7 and the E-Sign Act, 15 U.S.C. § 7001(a).

Article 8(2) provides that nothing in the Convention requires a party to use or accept electronic communications, but a party's agreement to do so may be inferred from the party's conduct. Article 8(2) is similar to the requirements of UETA § 5(a)-(c).

*Article 9. Form Requirements*

Article 9 of the Convention adopts a "functional equivalence approach" to electronic communications; that is, it promulgates rules determining how the functions of paper-based documents are fulfilled through electronic commerce

techniques. The provisions of Article 9 also implement the principle of “technology neutrality.”

Article 9(1) provides that nothing in the Convention requires a communication or contract to be made or evidenced in any particular form.

Article 9(2) provides that where the law requires that a communication or a contract should be in writing, or provides consequences for the absence of a written document, that requirement is met by an electronic communication if the information contained in the communication is accessible so as to be useable for subsequent reference.

These two subparagraphs are similar to UETA § 5 and the E-Sign Act § 101, 15 U.S.C. § 7001, both of which provide flexibility as to the form of a communication or record.

Article 9(3) provides that where the law requires that a communication or a contract should be signed by a party, or provides consequences for the absence of a signature, that requirement is met by an electronic communication under certain conditions. Those conditions are: (1) that a method is used to identify the party and to indicate that party’s intention in respect of the information contained in the electronic communication; and (2) that the method used is either (a) as reliable as appropriate for the purpose for which the electronic communication was generated or communicated, in the light of all the circumstances, including any relevant agreement; or (b) proven in fact to have fulfilled the requirements of party identity and intention, by itself or together with further evidence. Both of these conditions are similar to the rules for attribution of an electronic record or signature under UETA § 9.

Article 9(4) provides that where the law requires that a communication or a contract should be made available or retained in its original form, or provides consequences for the absence of an original, that requirement is met by an electronic communication if: (a) there exists a reliable assurance as to the integrity of the information it contains from the time that it was first generated in its final form, as an electronic communication or otherwise; and (b) where it is required that the information it contains be made available, that information is capable of being displayed to the person to whom it is to be made available. These provisions are similar to the E-Sign Act § 101(d), 15 U.S.C. § 7001(d), and UETA § 12.



Article 9(5) of the Convention provides that for purposes of Article 9(4)(a), a reliable assurance as to integrity exists if the information has remained complete and unaltered, apart from the addition of any endorsement (such as with commercial paper) and any change that arises in the normal course of communication, storage, and display. The Article further provides that the standard of reliability required shall be assessed in light of the purpose for which the information was generated and the relevant circumstances. This provision accommodates differing practices within commercial sectors, and avoids mandating legal standards derived from particular technologies.

*Article 10. Time and place of dispatch and receipt of electronic communications*

Article 10 sets forth rules for determining when and where an electronic communication is sent or received.

Article 10(1) provides that the time of dispatch of an electronic communication is the time when it leaves an information system under the control of the originator or of the party who sent it on the originator's behalf, or, if the electronic communication has not left an information system under the control of the originator or of the party who sent it on the originator's behalf, the time when the electronic communication is received. This provision is similar to the corresponding provision in § 15(a) of UETA, which provides that dispatch occurs when it enters a system outside the control of the originator or party sending it.

Article 10(2) provides that the time of receipt of an electronic communication is the time it becomes capable of being retrieved by the addressee at an electronic address designated by the addressee. It further provides that the time of receipt of an electronic communication at another electronic address of the addressee is the time when it becomes capable of being retrieved by the addressee at that address and the addressee becomes aware that the electronic communication has been sent to that address. An electronic communication is presumed to be capable of being retrieved by the addressee when it reaches the addressee's electronic address.

As explained in the UNCITRAL Explanatory Note, this paragraph "is conceived as a set of presumptions, rather than a firm rule on receipt of electronic communications." The presumption permits a purported recipient to assert evidence of non-receipt of a communication because of, for example, issues involving commercial use of security or spam filters or disruptions in internet service.

Article 10(3) provides that an electronic communication is deemed to be dispatched at the place where the originator has its place of business and is deemed to be received at the place where the addressee has its place of business, as determined in accordance with Article 6. This provision is intended to avoid questions that may arise concerning the location of servers or other communications technology or where a party may be when a message is received remotely.

Article 10(4) provides that even if the place where the communication is deemed to be received under Article 10(3) is different from the place where the information system supporting an electronic address is located, the rules under Article 10(2) will apply.

The Convention's provisions are similar to the sending and receipt rules contained in § 15 of UETA. Section 15(a) provides that in order to have a proper sending, the information must be properly addressed or otherwise directed to the recipient. There must be specific information that would direct the record to the intended recipient. Section 15(b) provides that a record is received when it enters the system that the recipient has designated or uses, and to which it has access, in a form capable of being processed by that system.

It is recommended that the following Understanding be included in the instrument of accession:

The United States understands (a) that in determining the time and place of dispatch under Article 10(1) of the Convention, an electronic communication will be considered dispatched only if the communication is properly addressed or otherwise directed to an addressee or recipient; and (b) that Article 10(2) of the Convention establishes a rebuttable presumption of receipt of an electronic communication.

This Understanding makes clear the U.S. understanding that dispatch, within the meaning of Article 10, requires effective direction to a recipient. This matter was considered by the negotiators of the Convention and deemed by them to be implicit in the concept of dispatch as articulated in the Convention. The Understanding also underscores that Article 10(2), as a whole, was intended to establish only a rebuttable presumption of receipt. As explained above, this understanding is expressly reflected in the UNCITRAL Explanatory Note. Therefore, purported recipients of an electronic communication could produce evidence of service

interruptions, repairs, deployment of reasonable computer security measures, and other grounds to show that effective receipt did not take place or was delayed.

*Article 11. Invitations to make offers*

Article 11 provides that a proposal to conclude a contract made through one or more electronic communications which is not addressed to specific parties but is generally accessible to parties making use of information systems (such as a general posting on a website) is to be considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound in case of acceptance. This rule is consistent with the common law of contracts in all the states and territories of the United States.

*Article 12. Use of automated message systems for contract formation*

Article 12 provides that a contract formed by the interaction of an automated message system and a natural person, or by the interaction of automated message systems, shall not be denied validity or enforceability on the sole ground that no natural person reviewed or intervened in each of the individual actions carried out by the automated message systems or the resulting contract.

This provision recognizes and facilitates the increasing use of automated message systems, sometimes called “electronic agents,” in electronic commerce. The Article makes clear that the validity of a contract does not require human review of each of the individual actions carried out by the automated message system or of the resulting contract. It is similar to the corresponding provisions in UETA §14, and the E-Sign Act, § 101(h), 15 U.S.C. § 7001(h).

*Article 13. Availability of contract terms*

Article 13 provides that nothing in the Convention affects the application of any rule of law that may require a party that negotiates some or all of the terms of a contract through the exchange of electronic communications to make available to the other party those electronic communications which contain the contractual terms in a particular manner, or relieves a party from the legal consequences of its failure to do so.

*Article 14. Input errors in electronic communications*

Article 14 provides a specific remedy with respect to a limited category of errors in electronic communications. It addresses “input” or “keystroke” errors that result from inputting the wrong data in communications exchanged with an automated message system.

Article 14(1) provides that, in transmissions between a natural person and an automated message system, and only when the system does not provide the person with an opportunity to correct the error, the person may withdraw that portion of the electronic communication in which the input error was made if (a) the person, or the party on behalf of which the person was acting, notifies the other party of the error as soon as possible and indicates that an error was made; and (b) the person, or the party on behalf of which the person was acting, has not used or received any material benefit or value of any goods or services received from the other party.

Article 14(2) provides that nothing in the Article affects the application of any rule of law that may govern the consequences of any error other than as provided in Article 14(1). As explained in the UNCITRAL Explanatory Note, Article 14 is not intended to overrule the general existing domestic law on mistake or error, but provides for a remedy – the opportunity to have the error corrected – under the very specific circumstances set forth in Article 14(1).

Article 14 of the Convention is largely consistent with the approach in § 10(2) of UETA, which sets forth similar rules if an error in an electronic record occurs in a transmission between parties to a transaction. Section 10(2) provides that in a transaction involving a natural person and an electronic agent, the person may avoid the effect of the error if the electronic agent did not provide an opportunity for the prevention or correction of the error, and at the time the person learns of the error, the person promptly notifies the other person of the error and that the individual did not intend to be bound; takes reasonable steps to return or to destroy the consideration received; and has not received any benefit or value from the consideration, if any, received from the other person.

Section 10 of UETA contains an additional provision that is not addressed in the Convention. Section 10(1) provides that where the parties have agreed to use a security procedure to detect errors, and one party has conformed to the procedure but the other has not, the electronic record is voidable at the insistence of the party who took all available steps to avoid the mistake. Because the Convention does not address this matter, U.S. states’ enactments of UETA § 10(1) would continue

to apply to a given transaction where the laws of the United States constitute the applicable law.

Further, § 10(4) of UETA provides that the error correction provisions relevant here cannot be varied by the parties, an approach derived from the fact that UETA, unlike the Convention, encompasses consumer contracts. Because the Convention only covers business to business transactions, it provides that rights related to error corrections are subject to negotiation by the parties. In this limited respect, the Convention differs from UETA, and the proposed federal implementing legislation would allow the parties to vary the rules on error correction.

#### CHAPTER IV. FINAL PROVISIONS

##### *Article 15. Depositary*

The UN Secretary-General is designated as the treaty's depositary.

##### *Article 16. Signature, ratification, acceptance, or approval*

Article 16 contains provisions on signature, ratification, acceptance, or approval. Article 16(3) provides that the Convention is open for accession by all States that are not signatory States. The United States would accede to the Convention.

##### *Article 17. Participation by regional economic integration organizations*

Article 17(1) provides that a regional economic integration organization that "has competence over certain matters governed by this Convention" may become a party to the Convention. This competence must be set forth in a declaration made to the depositary pursuant to Article 17(2), specifying the matters governed by the Convention in respect of which competence has been transferred to that organization by its member states. Article 17(1) further provides that where the number of Contracting States is relevant under the Convention, the regional economic integration organization shall not count as a Contracting States in addition to its member States that are Contracting States.

##### *Article 18. Effect in domestic territorial units*

Article 18 permits a Contracting Party that has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with by the Convention to declare (at the time of signature, ratification, acceptance,

approval, or accession) that the Convention is to extend to all its territorial units or only to one or more of them, and to amend its declaration by submitting another declaration at any time. Such a declaration is not recommended, because the United States has no interest in limiting the territorial application of the Convention within the United States.

*Article 19. Declarations on the scope of application*

Article 19 permits Contracting Parties to make declarations affecting the scope of application of the Convention for that country.

As noted above, under Article 1(1) of the Convention, the Convention applies whenever the parties exchanging electronic communications have their places of business in different countries, even if those countries are not States Parties to the Convention, as long as the law of a State Party is the applicable law. Article 19(1)(a) allows States Parties to declare that, notwithstanding Article 1(1), they will apply the Convention only when both States where the parties have their places of business are States Parties. Article 19(1)(b) allows a State Party to declare that it will apply the Convention only when the parties to a contract have agreed that the Convention applies to the electronic communications exchanged by them. It is not recommended that the United States make either type of declaration in view of U.S. policy to increase, as opposed to limit, the number of transactions to which the basic substantive electronic commerce law reflected in this Convention apply.

Article 19(2) permits a State Party to exclude matters from the scope of the Convention in addition to those already excluded by Article 2 or otherwise by specifying such exclusions in a declaration. The UNCITRAL Explanatory Note explains: "The types of matter that may be excluded may include matters that some States currently exclude from the scope of domestic legislation enacted to promote electronic commerce.... Another type of exclusion might be a declaration limiting the Convention only to the use of electronic communications in connection with contracts covered by international conventions listed in article 20, paragraph 1...."

It is recommended that in becoming a Contracting Party to the Convention, the United States continue to apply the same exclusions from scope currently applied in the United States pursuant to UETA and the E-Sign Act (for example, transactions governed by the law of wills, codicils or testamentary trusts) by making the following declaration:

Pursuant to Articles 19(2) and 21, the United States declares that the United States shall apply the Convention to electronic communications in connection with contracts subject to the provisions of Articles 2 and 2A of the Uniform Commercial Code (2013) and not to those electronic communications in connection with contracts subject to the provisions of Uniform Commercial Code Articles 3 through 9.

In addition to the above exclusions, the United States shall not apply the Convention to electronic communications excluded from the scope of (1) the 1999 Uniform Electronic Transactions Act as concluded by the National Conference of Commissioners on Uniform State Laws (*see* section 3(b)(1)-(3)), or (2) the Electronic Signatures in Global and National Commerce Act, Pub. Law 106-229 (June 30, 2000) (*see* section 103).

*Article 20. Communications exchanged under other international Conventions*

Article 20 provides for optional application of the Convention to the use of electronic communication in connection with a contract to which other treaties apply, especially those related to international trade, in order that references to “writings,” “signature,” and “originals,” for example, in such other treaties, may be interpreted to accommodate electronic communications.

Article 20(1) provides that the provisions of the Convention apply to the use of electronic communications in connection with the formation or performance of a contract to which six older commercial treaties apply. Five of these treaties were negotiated at UNCITRAL and the sixth has been subject to oversight by UNCITRAL since 1968. The Convention’s negotiators reviewed these six treaties and agreed that extending the provisions of this Convention to electronic communications to which those prior instruments apply was in each case appropriate and consistent with commercial practice. Therefore, if the United States accedes to this Convention, its provisions would apply to the use of electronic communications in connection with the formation or performance of a contract to which any of those treaties apply. The United States is currently a party to three of the six treaties, namely, the 1959 UN Convention on Recognition and Enforcement of Foreign Arbitral Awards (“New York Convention”), the 1974 UNCITRAL Convention on Limitation Periods for Claims Involving Contracts for the International Sale of Goods, and the 1980 UN Convention on Contracts for the International Sale of Goods.

Article 20(2) provides that the Convention applies further to electronic communications in connection with the formation or performance of a contract under any other treaty to which a State Party to this Convention is or may become a party, unless the State Party makes a declaration that it will not be bound by this paragraph.

Article 20(3) provides that a State Party that makes a declaration that it will not be bound by Article 20(2) nevertheless may declare that it will apply the provisions of this Convention to the use of electronic communications in connection with the formation or performance of a contract to which any specified treaty to which the State Party is or becomes a party applies.

Article 20(4) provides that any State Party may declare that it will not apply the provisions of this Convention to the use of electronic communications in connection with the formation or performance of a contract to which a treaty specified in that State's declaration, including any of the treaties cited in Article 20(1), applies.

It is recommended that the United States apply the provisions of the Convention only to electronic communications to which those treaties listed in Article 20(1) to which it is or becomes a party apply but not to electronic communications to which any other treaties apply. Accordingly, pursuant to Article 20(2), and in accordance with Article 21, it is recommended that the United States make the following Declaration:

The United States declares, pursuant to Articles 20(2) and 21, that the United States shall not be bound by Article 20(2).

*Article 21. Procedure and effects of declarations*

Article 21 provides for a State Party to make certain declarations indicating the manner in which the Convention will be implemented in that State.

Article 21(1) provides that declarations under Article 17(4), Article 19(1) and (2), and Article 20(2), (3), and (4) may be made at any time.

Other declarations, such as under Article 17(2) (regional organizations) or Article 18(1) (territorial declarations) must be made at the time of signature, ratification, acceptance, approval, or accession.



Article 21(2) provides that declarations and their confirmations are to be in writing and to be formally notified to the depositary.

Article 21(3) provides that a declaration submitted at the time of signature, ratification, acceptance, approval, or accession takes effect at the same time as entry into force for the State. A declaration that is notified to the depositary after entry into force of the Convention for the State concerned takes effect on the first day of the month following the expiration of six months after the date of receipt by the depositary.

Article 21(4) provides that any State that makes a declaration under this Convention may modify or withdraw it any time by a formal notification in writing to the depositary. Such modification or withdrawal will take effect on the first day of the month following the expiration of six months after the date of receipt by the depositary.

*Article 22. Reservations*

Article 22 provides that no reservations may be made under the Convention.

*Article 23. Entry into force*

Article 23 provides for entry into force upon ratification, acceptance, approval, or accession by three states, on the first day of the month following the expiration of six months following the deposit of the third instrument. The Convention entered into force March 1, 2013.

For a State that ratifies, accepts, approves, or accedes to the Convention after the third deposit, the Convention will enter into force for that State on the first day of the month following the expiration of six months after the date of its deposit.

*Article 24. Timing of application*

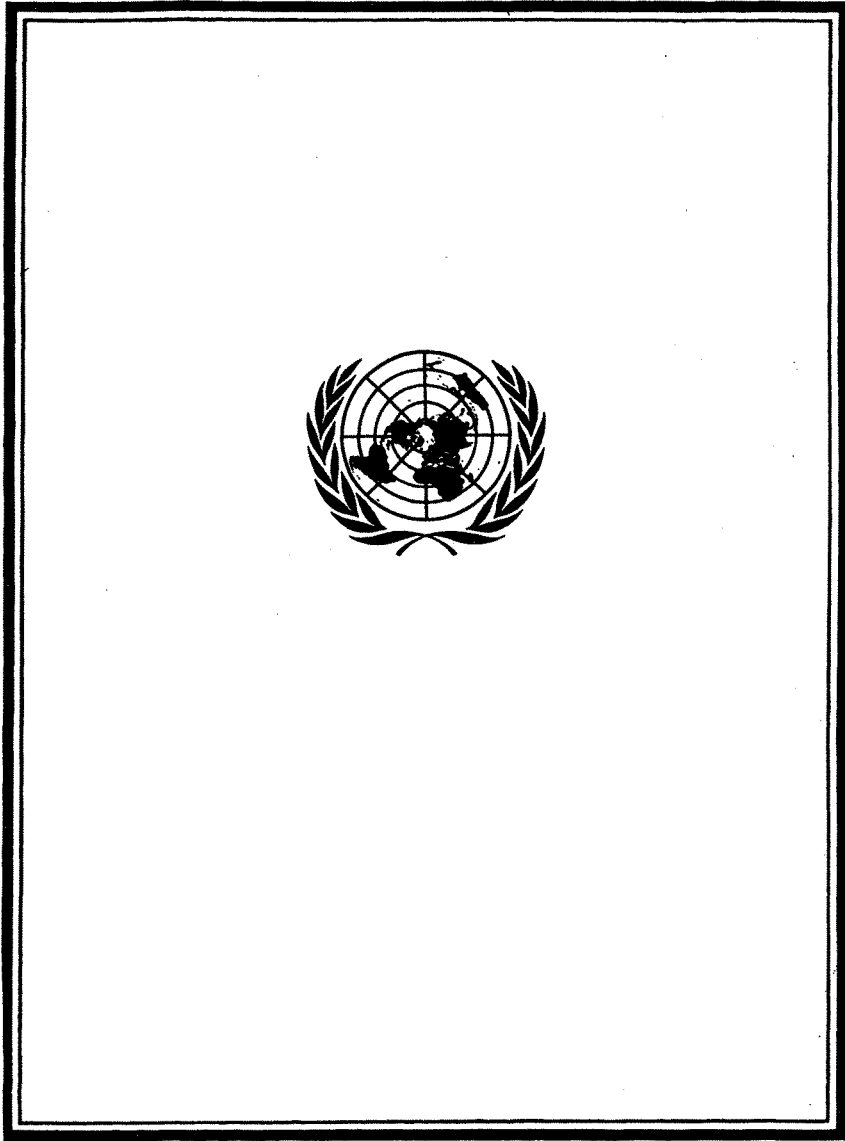
Article 24 adopts a prospective application rule and provides that the Convention and any declaration applies only to electronic communications that are made after the date when the Convention or relevant declaration enters into force or takes effect for the country whose law is relevant.

*Article 25. Withdrawal*

A State may withdraw from the Convention effective on the first day of the month following the expiration of twelve months after the notice of withdrawal is received by the depositary, or at such later time as may be specified by the withdrawing State.

**III. Federal Implementing Legislation**

The Administration has consulted with interested stakeholders, including experts in the law of electronic commerce and the ULC, regarding implementation of the Convention. Based on these consultations, the Administration recommends that the Convention be implemented through federal legislation, which will be submitted separately to Congress for its consideration. The Administration looks forward to consulting with the Congress on the implementing legislation.



اتفاقية الأمم المتحدة المتعلقة باستخدام الخطابات الإلكترونية  
في العقود الدولية

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联合国国际合同使用电子通信公约

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UNITED NATIONS CONVENTION ON THE USE  
OF ELECTRONIC COMMUNICATIONS  
IN INTERNATIONAL CONTRACTS

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CONVENTION DES NATIONS UNIES  
SUR L'UTILISATION DE COMMUNICATIONS  
ÉLECTRONIQUES DANS LES CONTRATS  
INTERNATIONAUX

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КОНВЕНЦИЯ ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ  
ОБ ИСПОЛЬЗОВАНИИ ЭЛЕКТРОННЫХ СООБЩЕНИЙ  
В МЕЖДУНАРОДНЫХ ДОГОВОРАХ

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CONVENCIÓN DE LAS NACIONES UNIDAS  
SOBRE LA UTILIZACIÓN DE LAS  
COMUNICACIONES ELECTRÓNICAS EN  
LOS CONTRATOS INTERNACIONALES

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**UNITED NATIONS CONVENTION  
ON THE USE OF ELECTRONIC COMMUNICATIONS  
IN INTERNATIONAL CONTRACTS**



**UNITED NATIONS  
2005**

**UNITED NATIONS CONVENTION ON THE  
USE OF ELECTRONIC COMMUNICATIONS IN  
INTERNATIONAL CONTRACTS**

*The States Parties to this Convention,*

*Reaffirming* their belief that international trade on the basis of equality and mutual benefit is an important element in promoting friendly relations among States,

*Noting* that the increased use of electronic communications improves the efficiency of commercial activities, enhances trade connections and allows new access opportunities for previously remote parties and markets, thus playing a fundamental role in promoting trade and economic development, both domestically and internationally,

*Considering* that problems created by uncertainty as to the legal value of the use of electronic communications in international contracts constitute an obstacle to international trade,

*Convinced* that the adoption of uniform rules to remove obstacles to the use of electronic communications in international contracts, including obstacles that might result from the operation of existing international trade law instruments, would enhance legal certainty and commercial predictability for international contracts and help States gain access to modern trade routes,

*Being of the opinion* that uniform rules should respect the freedom of parties to choose appropriate media and technologies, taking account of the principles of technological neutrality and functional equivalence, to the extent that the means chosen by the parties comply with the purpose of the relevant rules of law,

*Desiring* to provide a common solution to remove legal obstacles to the use of electronic communications in a manner acceptable to States with different legal, social and economic systems,

*Have agreed* as follows:

**CHAPTER I  
SPHERE OF APPLICATION**

**ARTICLE 1  
SCOPE OF APPLICATION**

1. This Convention applies to the use of electronic communications in connection with the formation or performance of a contract between parties whose places of business are in different States.

2. The fact that the parties have their places of business in different States is to be disregarded whenever this fact does not appear either from the contract or from any dealings between the parties or from information disclosed by the parties at any time before or at the conclusion of the contract.

3. Neither the nationality of the parties nor the civil or commercial character of the parties or of the contract is to be taken into consideration in determining the application of this Convention.

**ARTICLE 2  
EXCLUSIONS**

1. This Convention does not apply to electronic communications relating to any of the following:

(a) Contracts concluded for personal, family or household purposes;

(b) (i) Transactions on a regulated exchange; (ii) foreign exchange transactions; (iii) inter-bank payment systems, inter-bank payment agreements or clearance and settlement systems relating to securities or other financial assets or instruments; (iv) the transfer of security rights in sale, loan or holding of or agreement to repurchase securities or other financial assets or instruments held with an intermediary.

2. This Convention does not apply to bills of exchange, promissory notes, consignment notes, bills of lading, warehouse receipts or any transferable document or instrument that entitles the bearer or beneficiary to claim the delivery of goods or the payment of a sum of money.

**ARTICLE 3  
PARTY AUTONOMY**

The parties may exclude the application of this Convention or derogate from or vary the effect of any of its provisions.

**CHAPTER II  
GENERAL PROVISIONS**

**ARTICLE 4  
DEFINITIONS**

For the purposes of this Convention:

(a) "Communication" means any statement, declaration, demand, notice or request, including an offer and the acceptance of an offer, that the parties are required to make or choose to make in connection with the formation or performance of a contract;

(b) "Electronic communication" means any communication that the parties make by means of data messages;

(c) "Data message" means information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not limited to, electronic data interchange, electronic mail, telegram, telex or telecopy;

(d) "Originator" of an electronic communication means a party by whom, or on whose behalf, the electronic communication has been sent or generated prior to storage, if any, but it does not include a party acting as an intermediary with respect to that electronic communication;

(e) "Addressee" of an electronic communication means a party who is intended by the originator to receive the electronic communication, but does not include a party acting as an intermediary with respect to that electronic communication;

(f) "Information system" means a system for generating, sending, receiving, storing or otherwise processing data messages;

(g) "Automated message system" means a computer program or an electronic or other automated means used to initiate an action or respond to data messages or performances in whole or in part, without review or intervention by a natural person each time an action is initiated or a response is generated by the system;

(h) "Place of business" means any place where a party maintains a non-transitory establishment to pursue an economic activity other than the temporary provision of goods or services out of a specific location.



**ARTICLE 5  
INTERPRETATION**

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

2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

**ARTICLE 6  
LOCATION OF THE PARTIES**

1. For the purposes of this Convention, a party's place of business is presumed to be the location indicated by that party, unless another party demonstrates that the party making the indication does not have a place of business at that location.

2. If a party has not indicated a place of business and has more than one place of business, then the place of business for the purposes of this Convention is that which has the closest relationship to the relevant contract, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract.

3. If a natural person does not have a place of business, reference is to be made to the person's habitual residence.

4. A location is not a place of business merely because that is: (a) where equipment and technology supporting an information system used by a party in connection with the formation of a contract are located; or (b) where the information system may be accessed by other parties.

5. The sole fact that a party makes use of a domain name or electronic mail address connected to a specific country does not create a presumption that its place of business is located in that country.

**ARTICLE 7  
INFORMATION REQUIREMENTS**

Nothing in this Convention affects the application of any rule of law that may require the parties to disclose their identities, places of business or other

information, or relieves a party from the legal consequences of making inaccurate, incomplete or false statements in that regard.

**CHAPTER III  
USE OF ELECTRONIC COMMUNICATIONS IN  
INTERNATIONAL CONTRACTS**

**ARTICLE 8  
LEGAL RECOGNITION OF ELECTRONIC  
COMMUNICATIONS**

1. A communication or a contract shall not be denied validity or enforceability on the sole ground that it is in the form of an electronic communication.

2. Nothing in this Convention requires a party to use or accept electronic communications, but a party's agreement to do so may be inferred from the party's conduct.

**ARTICLE 9  
FORM REQUIREMENTS**

1. Nothing in this Convention requires a communication or a contract to be made or evidenced in any particular form.

2. Where the law requires that a communication or a contract should be in writing, or provides consequences for the absence of a writing, that requirement is met by an electronic communication if the information contained therein is accessible so as to be usable for subsequent reference.

3. Where the law requires that a communication or a contract should be signed by a party, or provides consequences for the absence of a signature, that requirement is met in relation to an electronic communication if:

(a) A method is used to identify the party and to indicate that party's intention in respect of the information contained in the electronic communication; and

(b) The method used is either:

(i) As reliable as appropriate for the purpose for which the electronic communication was generated or communicated, in the light of all the circumstances, including any relevant agreement; or

(ii) Proven in fact to have fulfilled the functions described in subparagraph (a) above, by itself or together with further evidence.

4. Where the law requires that a communication or a contract should be made available or retained in its original form, or provides consequences for the absence of an original, that requirement is met in relation to an electronic communication if:

(a) There exists a reliable assurance as to the integrity of the information it contains from the time when it was first generated in its final form, as an electronic communication or otherwise; and

(b) Where it is required that the information it contains be made available, that information is capable of being displayed to the person to whom it is to be made available.

5. For the purposes of paragraph 4 (a):

(a) The criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change that arises in the normal course of communication, storage and display; and

(b) The standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances.

#### **ARTICLE 10 TIME AND PLACE OF DISPATCH AND RECEIPT OF ELECTRONIC COMMUNICATIONS**

1. The time of dispatch of an electronic communication is the time when it leaves an information system under the control of the originator or of the party who sent it on behalf of the originator or, if the electronic communication has not left an information system under the control of the originator or of the party who sent it on behalf of the originator, the time when the electronic communication is received.

2. The time of receipt of an electronic communication is the time when it becomes capable of being retrieved by the addressee at an electronic address designated by the addressee. The time of receipt of an electronic communication at another electronic address of the addressee is the time when it becomes capable of being retrieved by the addressee at that address and the addressee becomes aware that the electronic communication has been sent to

that address. An electronic communication is presumed to be capable of being retrieved by the addressee when it reaches the addressee's electronic address.

3. An electronic communication is deemed to be dispatched at the place where the originator has its place of business and is deemed to be received at the place where the addressee has its place of business, as determined in accordance with article 6.

4. Paragraph 2 of this article applies notwithstanding that the place where the information system supporting an electronic address is located may be different from the place where the electronic communication is deemed to be received under paragraph 3 of this article.

#### **ARTICLE 11 INVITATIONS TO MAKE OFFERS**

A proposal to conclude a contract made through one or more electronic communications which is not addressed to one or more specific parties, but is generally accessible to parties making use of information systems, including proposals that make use of interactive applications for the placement of orders through such information systems, is to be considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound in case of acceptance.

#### **ARTICLE 12 USE OF AUTOMATED MESSAGE SYSTEMS FOR CONTRACT FORMATION**

A contract formed by the interaction of an automated message system and a natural person, or by the interaction of automated message systems, shall not be denied validity or enforceability on the sole ground that no natural person reviewed or intervened in each of the individual actions carried out by the automated message systems or the resulting contract.

#### **ARTICLE 13 AVAILABILITY OF CONTRACT TERMS**

Nothing in this Convention affects the application of any rule of law that may require a party that negotiates some or all of the terms of a contract through the exchange of electronic communications to make available to the other party those electronic communications which contain the contractual terms in a particular manner, or relieves a party from the legal consequences of its failure to do so.

**ARTICLE 14  
ERROR IN ELECTRONIC COMMUNICATIONS**

1. Where a natural person makes an input error in an electronic communication exchanged with the automated message system of another party and the automated message system does not provide the person with an opportunity to correct the error, that person, or the party on whose behalf that person was acting, has the right to withdraw the portion of the electronic communication in which the input error was made if:

(a) The person, or the party on whose behalf that person was acting, notifies the other party of the error as soon as possible after having learned of the error and indicates that he or she made an error in the electronic communication; and

(b) The person, or the party on whose behalf that person was acting, has not used or received any material benefit or value from the goods or services, if any, received from the other party.

2. Nothing in this article affects the application of any rule of law that may govern the consequences of any error other than as provided for in paragraph 1.

**CHAPTER IV  
FINAL PROVISIONS**

**ARTICLE 15  
DEPOSITARY**

The Secretary-General of the United Nations is hereby designated as the depositary for this Convention.

**ARTICLE 16  
SIGNATURE, RATIFICATION, ACCEPTANCE  
OR APPROVAL**

1. This Convention is open for signature by all States at United Nations Headquarters in New York from 16 January 2006 to 16 January 2008.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. This Convention is open for accession by all States that are not signatory States as from the date it is open for signature.

4. Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.

**ARTICLE 17**  
**PARTICIPATION BY REGIONAL ECONOMIC**  
**INTEGRATION ORGANIZATIONS**

1. A regional economic integration organization that is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The regional economic integration organization shall in that case have the rights and obligations of a Contracting State, to the extent that that organization has competence over matters governed by this Convention. Where the number of Contracting States is relevant in this Convention, the regional economic integration organization shall not count as a Contracting State in addition to its member States that are Contracting States.

2. The regional economic integration organization shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States. The regional economic integration organization shall promptly notify the depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a "Contracting State" or "Contracting States" in this Convention applies equally to a regional economic integration organization where the context so requires.

4. This Convention shall not prevail over any conflicting rules of any regional economic integration organization as applicable to parties whose respective places of business are located in States members of any such organization, as set out by declaration made in accordance with article 21.

**ARTICLE 18**  
**EFFECT IN DOMESTIC TERRITORIAL UNITS**

1. If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

2. These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.

3. If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, and if the place of business of a party is located in that State, this place of business, for the purposes of this Convention, is considered not to be in a Contracting State, unless it is in a territorial unit to which the Convention extends.

4. If a Contracting State makes no declaration under paragraph 1 of this article, the Convention is to extend to all territorial units of that State.

**ARTICLE 19  
DECLARATIONS ON THE SCOPE  
OF APPLICATION**

1. Any Contracting State may declare, in accordance with article 21, that it will apply this Convention only:

(a) When the States referred to in article 1, paragraph 1, are Contracting States to this Convention; or

(b) When the parties have agreed that it applies.

2. Any Contracting State may exclude from the scope of application of this Convention the matters it specifies in a declaration made in accordance with article 21.

**ARTICLE 20  
COMMUNICATIONS EXCHANGED UNDER  
OTHER INTERNATIONAL CONVENTIONS**

1. The provisions of this Convention apply to the use of electronic communications in connection with the formation or performance of a contract to which any of the following international conventions, to which a Contracting State to this Convention is or may become a Contracting State, apply:

Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958);

Convention on the Limitation Period in the International Sale of Goods (New York, 14 June 1974) and Protocol thereto (Vienna, 11 April 1980);

United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980);

United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 19 April 1991);

United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (New York, 11 December 1995);

United Nations Convention on the Assignment of Receivables in International Trade (New York, 12 December 2001).

2. The provisions of this Convention apply further to electronic communications in connection with the formation or performance of a contract to which another international convention, treaty or agreement not specifically referred to in paragraph 1 of this article, and to which a Contracting State to this Convention is or may become a Contracting State, applies, unless the State has declared, in accordance with article 21, that it will not be bound by this paragraph.

3. A State that makes a declaration pursuant to paragraph 2 of this article may also declare that it will nevertheless apply the provisions of this Convention to the use of electronic communications in connection with the formation or performance of any contract to which a specified international convention, treaty or agreement applies to which the State is or may become a Contracting State.

4. Any State may declare that it will not apply the provisions of this Convention to the use of electronic communications in connection with the formation or performance of a contract to which any international convention, treaty or agreement specified in that State's declaration, to which the State is or may become a Contracting State, applies, including any of the conventions referred to in paragraph 1 of this article, even if such State has not excluded the application of paragraph 2 of this article by a declaration made in accordance with article 21.

#### **ARTICLE 21 PROCEDURE AND EFFECTS OF DECLARATIONS**

1. Declarations under article 17, paragraph 4, article 19, paragraphs 1 and 2, and article 20, paragraphs 2, 3 and 4, may be made at any time. Declarations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.



2. Declarations and their confirmations are to be in writing and to be formally notified to the depositary.

3. A declaration takes effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force takes effect on the first day of the month following the expiration of six months after the date of its receipt by the depositary.

4. Any State that makes a declaration under this Convention may modify or withdraw it at any time by a formal notification in writing addressed to the depositary. The modification or withdrawal is to take effect on the first day of the month following the expiration of six months after the date of the receipt of the notification by the depositary.

#### **ARTICLE 22 RESERVATIONS**

No reservations may be made under this Convention.

#### **ARTICLE 23 ENTRY INTO FORCE**

1. This Convention enters into force on the first day of the month following the expiration of six months after the date of deposit of the third instrument of ratification, acceptance, approval or accession.

2. When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the third instrument of ratification, acceptance, approval or accession, this Convention enters into force in respect of that State on the first day of the month following the expiration of six months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

#### **ARTICLE 24 TIME OF APPLICATION**

This Convention and any declaration apply only to electronic communications that are made after the date when the Convention or the declaration enters into force or takes effect in respect of each Contracting State.

**ARTICLE 25  
DENUNCIATIONS**

1. A Contracting State may denounce this Convention by a formal notification in writing addressed to the depositary.

2. The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

DONE at New York this twenty-third day of November two thousand and five, in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

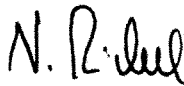
IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention.

I hereby certify that the foregoing text is a true copy of the United Nations Convention on the Use of Electronic Communications in International Contracts, adopted by the General Assembly of the United Nations on 23 November 2005, the original of which is deposited with the Secretary-General of the United Nations.

Je certifie que le texte qui précède est une copie conforme de la Convention des Nations Unies sur l'utilisation de communications électroniques dans les contrats internationaux, adoptée par l'Assemblée générale des Nations Unies le 23 novembre 2005, dont l'original se trouve déposé auprès du Secrétaire général des Nations Unies.

For the Secretary-General,  
The Legal Counsel

Pour le Secrétaire général,  
Le Conseiller juridique



Nicolas Michel

United Nations  
New York, 24 January 2006

Organisation des Nations Unies  
New York, le 24 janvier 2006

