



International Chamber of Commerce

The world business organization

Department of Policy and Business Practices

ICC remarks for UNCITRAL special event

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Delivered by Ronnie Goldberg, Executive Vice President, Policy and Program, US Council for International Business (USCIB), ICC national committee for USA

I am delighted to be speaking to you today on behalf of the International Chamber of Commerce. My organization, USCIB, is the U.S. affiliate of ICC, but ICC as you well know represents s business from around the world, of all sectors and sizes.

ICC appreciates the opportunity to convey our endorsement of the UNCITRAL convention on the Use of Electronic Communications in International Contracts and I am pleased to be here to highlight the views of business on this important convention that is being celebrated with this special event.

ICC welcomes the signing of this convention as a sign of the increasing legal recognition of electronic contracting, particularly in developing countries. This is indeed a useful evolution to spur development of cross-border online commerce in both developed and developing countries.

Businesses, governments and other users of information and communication technologies have a mutual interest in ensuring that that legal, policy and regulatory frameworks for these technologies are developed with the input of all relevant stakeholders, especially including the private sector. This is the best way to ensure that these technologies will promote investment, foster entrepreneurship, and simulate innovation – in short to ensure that ICT can continue to be an effective tool for economic and social development. This convention is a positive contribution towards this objective.

Let me take a moment to highlight three ways in which we believe that this convention will be helpful to businesses, and indeed to all users, in the countries that ratify it.

First, the UNCITRAL convention allows electronic communications to satisfy the requirements of other international conventions without needing to individually renegotiate each of these conventions. We regard this as an efficient way to reassure companies and traders around the globe that electronically-negotiated contracts are as valid and binding as paper-based versions.

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Second, we welcome the provisions that require signatory countries to recognize the legal validity of electronic communications used in contracts, as well as those dealing with issues that commonly arise in electronic agreements, such as location of the parties, information and form requirements, time and place of dispatch and receipt of electronic communications, invitations to make offers, and errors. These offer constructive approaches to common concerns.

And thirdly, we welcome the enhanced legal certainty and support for the concept of party autonomy that the convention provides. Party autonomy is essential to electronic contracting. Enabling electronic contracting is a two-stage process: the first essential step is to provide the legal framework, which the convention does. The second step is taken through commercially negotiated contracts. In short, the convention allows parties to contracts to shape their electronic agreements in the most productive way possible, and it supplies the legal foundation for the parties to ensure that their electronic contract meet their specific needs.

Finally, let me say a word about ICC's role in the UNCITRAL process and about how the instrument we are discussing today relates to other ICC initiatives.

ICC participated in the drafting of the convention through a joint task force of its Commission on Commercial Law and Practice and Commission on E-Business, IT and Telecoms, by furnishing expert input and sharing business experiences on electronic transactions. In 2004 ICC developed "eTerms" that provide complementary provisions for businesses around the world to use in international contracts. ICC eTerms is a set of articles developed by business that parties can incorporate into their contracting document that make it clear they intend to agree to a binding electronic contract. These terms and the Convention, therefore, complement each other.

ICC welcomes the opportunity to continue the productive and cooperative relationship with UNCITRAL which has been established through the process of this convention and many other initiatives. We would appreciate building upon these experiences and having an ongoing dialogue on any future work with UNCITRAL to bring business experience and expertise to bear on issues that will help boost e-commerce, and therefore positively affect economic growth and development.

Thank you.