

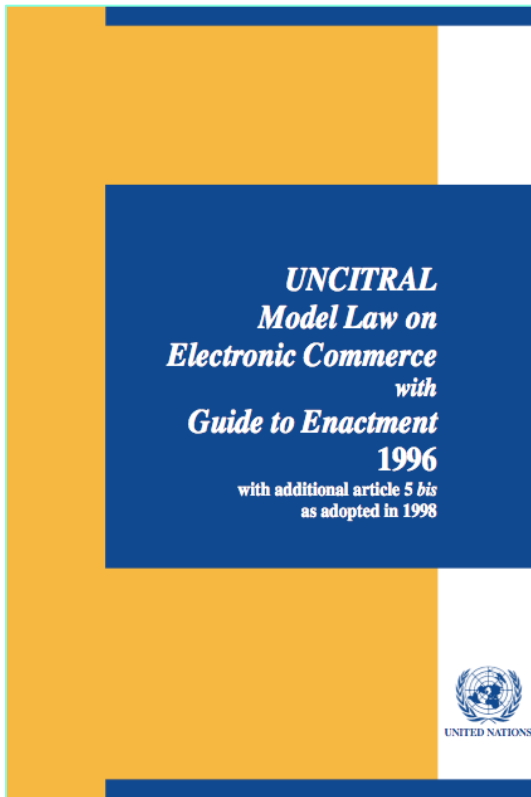


UNCITRAL texts on e-commerce: an overview

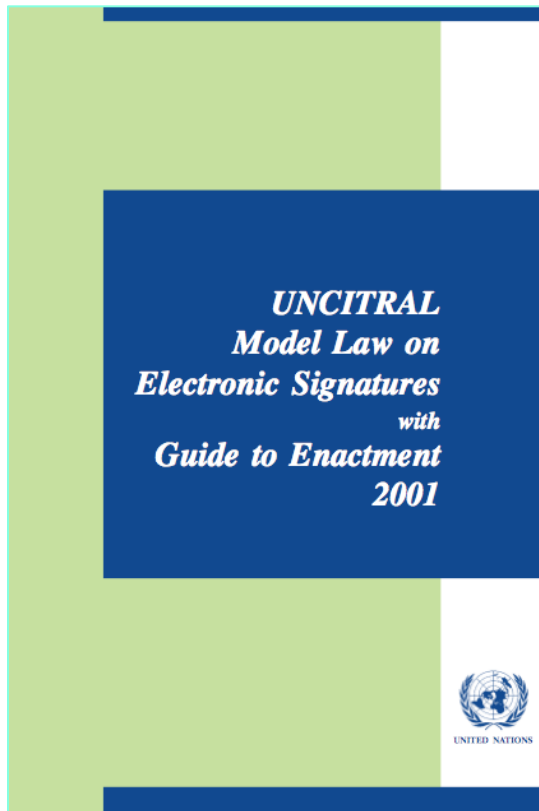
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ADB CAREC Digital Trade Forum 2022**

UNCITRAL texts on electronic commerce

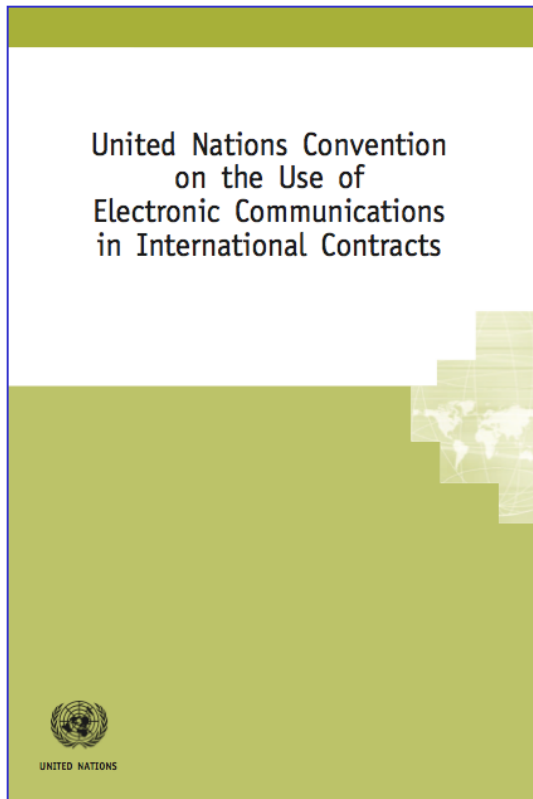
- UNCITRAL Model Law on Electronic Commerce, 1996
 - Enacted in over 80 States.
- UNCITRAL Model Law on Electronic Signatures, 2001
 - Enacted in about 40 States
- United Nations Convention on the Use of Electronic Communications in International Contracts, 2005:
 - 18 signatories, 16 States parties
 - 20+ States have enacted domestically its provisions
- UNCITRAL Model Law on Electronic Transferable Records, 2017
 - Enacted in 7 jurisdictions
- UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services, 2022
- Texts, status, preparatory and explanatory materials are available on the [UNCITRAL website](#)



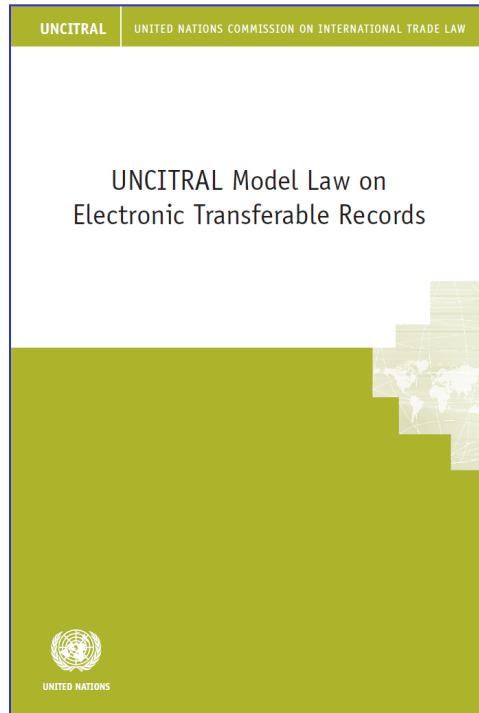
- Adopted in 1996, the UNCITRAL Model Law on Electronic Commerce is intended to enable the commercial use of modern means of communications and storage of information.
- It is based on the establishment of a functional equivalence in electronic media for paper-based concepts such as “writing”, “signature” and “original”.
- It also sets rules for the formation and validity of contracts concluded electronically and for the attribution and retention of data messages.



- Adopted in 2001, the UNCITRAL Model Law on Electronic Signatures aims at bringing additional legal certainty to the use of electronic signatures.
- It follows a neutral approach to avoid favouring the use of any specific technology, method or product.
- It associates presumptions to the use of e-signatures that meet certain requirements (“two-tier approach”).
- It establishes basic rules for assessing obligations and liabilities for the signatory, the relying party and trusted third parties intervening in the signature process.



- Adopted in 2005, the Electronic Communications Convention builds up on and updates the provisions of the MLEC.
- It enhances legal certainty of electronic communications used across borders by, among others:
 - validating the legal status of electronic transactions;
 - setting functional equivalence requirements;
 - preventing medium- and technology-discrimination;
 - enabling cross-border recognition of electronic signatures; and
 - giving certainty on the legal status of electronic communications used under other treaties.



- Adopted in 2017, the Model Law on Electronic Transferable Records (MLETR) allows use in electronic form of bills of lading, promissory notes, warehouse receipts, checks etc.
- Main features:
 - Singularity: prevent double spending
 - Control: ensure that the person disposing of the ETR is the one supposed to be able to do so
 - Integrity: record all events
 - Reliability: assessed on a geographic-neutral basis
- Seen as a key enabler of digital trade financing, logistics and paperless trade
- Takes into account most recent technology developments (blockchain, IoT)

**Draft Model Law on the Use and Cross-border Recognition
of Identity Management and Trust Services****Note by the Secretariat**

1. At its sixty-second session (Vienna, 22–26 November 2021), Working Group IV (Electronic Commerce) concluded its third reading of the draft provisions on the use and cross-border recognition of identity management and trust services and their explanatory note.

2. At that session, the Working Group requested the secretariat to revise the draft provisions and the explanatory note to reflect its deliberations and decisions and to transmit the revised text to the Commission, in the form of a model law, for consideration at its fifty-fifth session, in 2022. The secretariat was also asked to circulate the revised text to all Governments and relevant international organizations for comment, and to compile the comments received for the consideration of the Commission (A/CN.9/1087, para. 11).

3. The revised model is set out in Annex I to this document and the revised explanatory note is set out in Annex II to this document. Revisions incorporate the deliberations of the Working Group at its sixty-second session as reported in document A/CN.9/1087.

- Adopted in July 2022, the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services (MLIT) completes the range of UNCITRAL texts.
- IdM and trust services are critical to build confidence in online transactions and dataflows
 - Trust services include e-signatures
- Two-tier approach: designation ex ante (trusted lists) and determination ex-post of reliable services
 - Presumption of reliability for designated services
- Dedicated provisions on liability and cross-border recognition

UNCITRAL texts and free trade agreements

- Bilateral and plurilateral Free Trade Agreements contain chapters on e-commerce and paperless trade facilitation
 - CPTPP and RCEP
- Dedicated treaties:
 - WTO Trade Facilitation Agreement
 - ESCAP Framework Agreement on Paperless Trade Facilitation
 - Digital Economy (Partnership) Agreement
 - WTO plurilateral Joint Statement Initiative (under negotiation)
- UNCITRAL texts are instrumental to implement these FTAs.
- In many cases, the reference to UNCITRAL texts is explicit