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**ECONOMIC COMMISSION FOR EUROPE**

COMMITTEE FOR TRADE, INDUSTRY AND  
ENTERPRISE DEVELOPMENT

Centre for Trade Facilitation and Electronic Business (UN/CEFACT)

Item 5 of the provisional agenda

Tenth session, 17-19 May 2004

**CONSOLIDATED GROUP MANDATE AND TERMS OF REFERENCE**

**UN/CEFACT LEGAL GROUP (LG)**

Submitted by the Chairman of the UN/CEFACT Legal Group (LG) \*

\* This document is **for information** and contains part of the consolidated list of mandates and terms of reference, which the secretariat has prepared for reference purposes. The contents have previously been submitted to the Plenary either in an informal document or as part of a UN/CEFACT Steering Group Report.

## **Mandate of the Legal Group (LG)**

### **1. Objectives**

#### **1.1 Purpose**

The purpose of the Legal Group (LG) is to analyse current legal processes and issues within the mission and objectives of UN/CEFACT, to identify legal constraints that adversely affect the mission and objectives of UN/CEFACT, and to propose practical improvements to these legal processes and issues.

#### **1.2 Scope**

The activities of the LG are the legal processes and issues within the mission and objectives of UN/CEFACT and its empowered groups. The groups work to produce trade facilitation and electronic business recommendations and technical specifications to advance global commerce.

### **2. Key Deliverables**

The key deliverables of the LG are:

- Analysis, research and review of legal processes and issues;
- Identification of constraints to more effective legal processes and procedures;
- Practical proposals for the removal of such constraints;
- Development, publication and promotion of guidelines supporting best legal practice;
- Contributions to and, where appropriate, efforts to influence related work in other organizations such as UNCITRAL, UNCTAD, WTO, OECD and the ICC;
- Provision, as required, of practical legal advice and assistance to the work being undertaken by other UN/CEFACT permanent and ad hoc working groups and contributions to the formation of the legal aspects of policy;
- Proposals, including draft Recommendations for review and approval by the UN/CEFACT Plenary;
- Maintenance of Recommendations:
  - UNECE Recommendation No. 131 - Facilitation of Identified Legal Problems in Import Procedures;
  - UNECE Recommendation No. 14<sup>1</sup> - Authentication of Trade documents other than by signature;
  - UNECE Recommendation No. 26 - The commercial use of Interchange Agreement for EDI;
  - UNECE Recommendation No. 31 - Electronic Commerce Agreement;
  - UNECE Recommendation No. 32 - E-Commerce Self-Regulatory Instruments (Codes of Conduct).

### **3. Functional Expertise of Membership**

Membership is open to experts with broad knowledge in the area of legal issues arising within the work programme of UN/CEFACT and the functions of UN/CEFACT and its groups. In addition Heads of Delegations may invite technical experts from their constituency to participate in the work. Experts are expected to contribute to the work based solely on their expertise and to comply with the UN/CEFACT Code of Ethics.

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<sup>1</sup> In cooperation with the International Trade and Business Processes Group (TBG)

#### **4. Geographical Focus**

The focus is global.

#### **5. Delegated Responsibilities**

The LG is empowered in accordance with agreed procedures to:

- Establish working-groups and project teams as required;
- Approve project proposals via the Forum Coordination Team (FCT);
- Progress designated projects following UN/CEFACT's Open Development Process for Technical Specifications;
- Collaborate with other UN/CEFACT Groups and the UN/CEFACT Steering Group (CSG) on implementation of it's work plan;
- Present draft proposals and/or recommendations to the UN/CEFACT Plenary;
- Formally release any LG deliverables not requiring UN/CEFACT approval;
- Cooperate and establish liaisons with other groups and organizations as required; and
- Issue, publish and present:
  - Analyses of existing legal processes and procedures;
  - Reports on constraints to more effective legal processes;
  - Proposals, to UN/CEFACT and other organizations, for more effective legal processes and procedures;
  - Guidelines for better business practice within the area of the mandate.

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#### **Statement of resource requirements**

Participants in the LG shall be required to provide the resources required for their own attendance in the work of the LG. In order to support the ongoing work of the LG, the following resources are required to be provided either by the UN/CEFACT secretariat or by the appointed UN/CEFACT Services Provider:

- Provision of secretariat for the LG. To cover consolidation, preparation, distribution and maintenance of official and working documents, including minutes and lists related to the meetings and the work of the group;
- Secretariat Attendance, at no travel or accommodation cost to the UNECE, at meetings of the LG held outside Geneva;
- Maintenance of logs and records of membership of the LG;
- Coordination and distribution of relevant information and documents;
- Establishing and maintaining the LG public Web site pages with appropriate links, document download facilities, and items of interest;
- Establishing and maintaining the LG public and private list servers.

### **Terms of Reference of the Legal Group (LG)**

The purpose of the Legal Group (LG) is to undertake current legal processes and issues within the mission of CEFACT in accordance with its mandate. The strategy is to identify legal constraints that adversely impact on the CEFACT mission and objectives and to propose practical improvements to these legal constraints.

The terms of reference are drafted in accordance with document R.650, paragraphs 60 to 63 inclusive, and cover:-

1. a definition of the specific issues to be addressed;
2. a detailed description of the proposed deliverables;
3. membership;
4. the administrative structure of the group;
5. a time schedule and milestones of its functions;
6. a proposal for liaison with other CEFACT groups and external bodies as appropriate.

The means of performing each of the above are as follows:-

#### 1 Definition of the specific issues to be addressed

- 1.1 Analysis, research and review of legal processes and issues.
- 1.2 Identification of constraints to more effective legal processes and procedures.
- 1.3 Practical proposals for the removal of such constraints.
- 1.4 Draft UN/ECE Recommendations.
- 1.5 Development, publication and promotion of guidelines supporting best legal practice.
- 1.6 Contributions to, and where appropriate, efforts to influence related work in other organisations such as UNCITRAL and the ICC.
- 1.7 Provision, as required, of practical legal advice and assistance to the work being undertaken by other CEFACT permanent and ad hoc groups and contributions to the formation of the legal aspects of policy.

#### 2 Detailed description of the proposed deliverables

- 2.1 The proposed deliverables are as set out in the work programme of the LWG.
- 2.2 In accordance with its mandate, the LWG will interact with other CEFACT groups on matters of common interest.
- 2.3 The LG will review UN/ECE Recommendations and associated activities as listed in the appendix to these terms of reference, every two years and will review other UN/ECE Recommendations as specifically requested by members of CEFACT and other groups within CEFACT subject to availability of resources.
- 2.4 The LWG will submit an annual report to CEFACT covering its activities undertaken in accordance with its mandate and work programme.
- 2.5 The LWG deliverables will be available through the UN website which will be implemented and maintained by the UN/ECE Secretariat.

3 Membership

Nominations to LG will be made by heads of delegations on the basis of the functional expertise as described in paragraph 3 of the mandate and external assistance may be sought pursuant to document R.650, paragraph 70.

4 Administrative Team Structure

4.1 The LWG will appoint a Chairperson and one or more Vice Chairpersons and may recommend to the CEFACT Plenary the appointment of one or more Legal Rapporteurs pursuant to document R.650, paragraph 24.

4.2 Within the LWG structure the CEFACT secretariat will:-

4.2.1 service regular meetings as agreed by the officers, prepare agendas as required and draw up minutes at meetings attended by the secretariat;

4.2.2 establish, use and maintain the LWG web page as the main forum for the transmission of data so that the LWG may undertake its mandate effectively.

5 Time frame

The mandate, terms of reference and work programme will determine the time framework for the activities and deliverables to be completed.

6 Liaison with other Groups and External Organisations

6.1 Four different types of co-operation have been identified. These are:-

6.1.1 common work (projects) and common tools;

6.1.2 complementary work and different methods (co-ordination required);

6.1.3 separate work but common tools and methods (co-ordination required);

6.1.4 separate work and different methods (interface needed).

6.2 This liaison will be achieved in the following fashion:

| <b>Name of organisation</b>                          | <b>Level of co-operation<br/>from 1 to 4</b> |
|--|--|
| Techniques and Methodologies Group (TMG)             | 1  |
| Information Content Group (ICG)                      | 1  |
| International Trade & Business Processes Group (TBG) | 1  |
| UNCITRAL   | 2 to 3                                       |
| UNCTAD   | 2 to 3                                       |
| ICC  | 3  |
| EU   | 3  |
| WTO  | 3 to 4                                       |
| National ECA/EDIA bodies                             | 3 to 3                                       |
| National trade facilitation bodies                   | 2 to 3                                       |
| International Chamber of Shipping (ICS)              | 4  |
| International Maritime Organisation (IMO)            | 4  |
| National/Regional standardisation bodies             | 4  |
| WCO  | 4  |

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