

# RECOMMENDATION 14 REVISION WORKING GROUP

CONFERENCE CALL 5

6 FEBRUARY 2013, 13:00 CET (DEFINITIONS) & 15:00 (LEVELS)

## Attendance

### Present:

Lance THOMPSON, Conex (FR)  
Richard FIELD, Lawyer (US)  
Nancy HART, Vilden (US)  
Jean-Michel KALISZEWSKI, IATA (CH)  
Tanno KANGUR, UNECE (UN)  
Railas LAURI, Krogerus (FI)  
Jae Sung LEE, UNCITRAL (UN)  
Chema LOPEZ GONZALEZ, Isigma (ES)  
Bill LUDDY, Legal Advisor (US)  
Raffaella MIGLIORINI, Ministry Economy (IT)  
Anna NORDEN, Trustweaver (SE)  
Pandey PRIANCEU, Office Controller Certifying Authorities (IN)  
Jari SALO, Tieke (FI)  
Carlo SALOMONE, AITI-EACI (IT)  
Alexander SAZONOV, National Certification Authority (CIS)  
Ian SPEAR, Buckley Sandler LLP (US)  
Anders TORNQVIST, Comfact (SE)

### Excused absents:

Johan PONTEN, Kommerskollegium (SE)  
Josephine BAIAMONTE, CBP (US)  
Ervin CANO, Chamber of Commerce (GT)  
Luca CASTELLANI, UNCITRAL (UN)  
Peter KUSTOR, Federal Chancellery (AT)  
Chantal PRALIAUD, Imprimerie N'ale (FR)  
Thomas SMEDINGHOFF, Edwards Wildman Palmer LLP (US)  
Johan STOOPEN, Dutch Customs (NL)  
Tahir SYED, IATA (CH)

### Other absents:

Andrea CACCIA, Hub2Hub (IT)  
Michael COFFEE, US State Dept (US)  
Moudrick DADASHOV, SSC (LT)  
Gerard GALLER, EU Commission (EC)  
Jeong Hyun LEE, NIPA (KR)  
Young-Kon LEE, NIPA (KR)  
P. RAMACHANDRAN, NIC (IN)  
Kai RANNENBERG, ISO-DIN (DE)  
Marco SORGETTI, FIATA (CH)

*(points that may require your action in red below)*

## General summary – overview

Concerning the definitions:

- There were a majority in favor of the definitions of “signature”, “electronic signature”, and “functions of signature”. These have remained as are.
- Concerning the term “authentication”, it was decided that UN/CEFACT recommendations are not destined to give a ‘legal definition’ to every term used and that there may be no effect on the rest of the document whether this term is defined or not. Furthermore, this term can have conflicting meanings depending on the legal system... It is suggested to eliminate this definition altogether for the moment until we are in the Public Review for reactions.
- Concerning the term “authenticity”, we discussed the difference that can exist between a technical definition and a legal definition.
  - In order to remain technologically neutral and unambiguous on that point, it was chosen to reword the last phrase of the proposed text (lines 182-183 of the draft v0.4) to state:
    - “Authenticity is the property of being genuine (without alterations) and able to be reasonably reliable.”
  - The definition lines 180-182 of the draft v0.4 (copy-pasted from UNCITRAL) were retained as generally acceptable by all.
- The concept of the levels of the functions determining authenticity was deleted.
- The definition of “Document authenticity” provided in lines 333-344 of the draft v0.4 was deleted (the concept of seals and similar technology can be approached in Annex B)

#### Concerning levels:

- Remove the idea of levels as they were presented until now.
- To governments and all involved:
  - “that method is as reliable as was appropriate for the purpose for which the data message was generated or communicated, in the light of all the circumstances, including any relevant agreement.” (MLES, art.7(1)(b))
- To trading partners, Proposition of a Decision Tree / Check List to replace levels:
  - Is a signature required at all to authenticate the trade document?
    - The different aspects to consider in order to determine this...
  - What are the threats / risks?
    - Can the chosen method be authenticated in the context of the transaction?
  - Signature solution strength (when understand problem, how to choose among the choices)...
  - Importance (how critical is the document and other factors)...
    - Here we find the idea of levels (low, medium, high, etc.)
  - Regulatory issues (context of national laws [commercial law issues], international conventions...)
  - Compatability (industry issues...)
  - Relationship between the trading parties (trust, etc.)
- All Rec14 experts are invited to propose questions/ideas for such a check list which would be used to determine the most appropriate method to replace a manual-ink signature in a given business transaction.

#### Houskeeping items

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##### **Annex A & Annex B submission request letters have been approved by the UN/CEFACT Bureau.**

- The finalized/ official letters will be posted on the UNECE Confluence website as soon as they are sent to the Heads of Delegations (within the next few days, I hope)

##### **Registration as UN/CEFACT expert:**

- **Reminder:** Each Rec14 expert should be registered on the UN/CEFACT website.
- [https://webapps.unog.ch/cefact\\_part\\_reg](https://webapps.unog.ch/cefact_part_reg)

##### **UN/CEFACT Geneva Forum: April 15 to 19, 2013**

- **Reminder:** Registration to the **Geneva Forum** is open and free for all UN/CEFACT Experts.
- Rec14 meetings will be on the Tuesday, April 16<sup>th</sup>.
- <http://www.unece.org/index.php?id=30903>

##### **Update on the Confluence Website**

- **Reminder:** All relevant documents on Recommendation 14 are on the UNECE Confluence website:
- <http://www1.unece.org/cefact/platform/display/CNP/Revision+of+Recommendation+14%2C+Authentication+of+Trade+Documents+by+Means+other+than+Signature>