

XXIV INTERNATIONAL CONGRESS OF LATIN NOTARIES
CONCLUSIONS OF THE WORKING GROUP FOR THEME II

“The Notary and electronic contracts”

The representatives of all member countries of the International Union of Latin Notaries, who met on the 18th, 19th and 20th October 2004 as part of the XXIV International Congress of Latin Notaries held in Mexico City, wish to inform you that, in accordance with article 23.8 of the Statutes of the International Union of Latin Notaries, a committee was appointed to draw up this report which contains the results of the debate on seventeen written reports which were orally presented.

Conclusions:

1. Whereas digital signatures are a technical tool which can serve the notarial function,

we request that

member notariats be equipped with the necessary means for encouraging the introduction of the new technologies, the training of notaries and the use of digital signatures. The UINL should develop and settle the guidelines of a certification policy in relation to a notarial digital signature in member countries, setting out the principles and common points thereof.

2. Whereas an electronic notarial deed is to meant to be rapidly and effectively distributed

we request that

the International Union of Latin Notaries promote, in relation to the rules and principles which it will develop, guidelines for certification policies for digital certification in member countries.

3. Whereas for the free international circulation of electronic notarial deeds there must be a general method for verifying the signature and the capacity of the presiding notary,

we request that

the certification of the notary's digital signature remain under the control of the member notariats, whilst observing the principals and methods which are developed for such verification on a global level.

4. Whereas the member notariats notary should guarantee the application of new technology to the notarial function, and it is fundamental that the basic principles of the Latin notariat remain unaltered in electronic commerce, taking into account the role of the notary in the same, and the prevention of conflicts in legal relations, the notary thereby giving added value with regard to the requirements of security and trust required by modern society

we request that

member notariats ensure the retention of the inherent requirements of a notarial deed, which are, amongst other things, the physical presence of the parties before the notary, the parties' and the notary's signatures, the dating and the archiving of the notarial deed by the notary, both in the case of electronic documents as well as paper ones, thereby ensuring its probatory and executory force, in the best interests of society.

5. Whereas the new technologies are an important tool for communication between citizens and public authorities, this being a vital tool for the modernisation thereof

we request that

the role of the notary as a public official in relation to public registries and the Administration in general be underlined by adopting the legal and technological regulations necessary to make them, secure and available, in particular by guaranteeing direct access for notaries to Public Registries for the fulfilment of his public office.

6. Whereas the Latin notary contributes to the creation of a global legal secure environment through the free circulation of notarial deeds, with their probative and executory force, both electronically or on paper

we request that

technical and legislative rules be adopted for the full recognition of such documents at a global level.

7. Whereas there are varying degrees of development of the new technologies in among the member notariats

we request that

the principal of solidarity and mutual assistance be paramount, which is inherent to the principles of the International Union of Latin Notaries.