Cross-border paperless trade guide & toolkit

Soo Hyun Kim, United Nations ESCAP
Readiness assessment for cross-border paperless trade

- Assessments of legal and technical readiness to:
  - Identify where the country stands
  - Analyze the gaps
- Leading to recommendations, and individual action plans for countries to move forward toward cross-border paperless trade
- Action plans may be further elaborated upon and incorporated into other relevant national development plans

Legal Readiness Checklist

I. ELECTRONIC TRANSACTIONS AND SIGNATURES LAW
   A. General principles
   B. Electronic signatures and trust services
   C. Privacy and data protection
   D. Data sharing
   E. Data retention and electronic evidence

II. LAWS REGARDING PAPERLESS TRADE SYSTEMS
   A. Establishment of a paperless trade system
   B. Quality of information exchanged with the paperless trade system
   C. Service-level agreements and memorandums of understanding

III. CROSS-BORDER ASPECTS
   A. International agreements relevant for cross-border paperless trade facilitation
   B. International standards, guidelines and recommendations

IV. OTHER CONSIDERATIONS
   A. Ownership of information in the paperless trade system
   B. Liability issues related to cross-border paperless trade system
   C. Dispute settlement and conflict of laws
   D. Electronic payments and records
   E. Competition laws
Readiness Assessment Guide for CBPT

https://readiness.digitalizetrade.org/
I.A ELECTRONIC TRANSACTIONS LAW: GENERAL PRINCIPLES

This section is aimed at identifying the general features of electronic transactions law, including whether they implement internationally recognized general principles.

I.A.1 What is the legal status of electronic transactions?

Electronic transactions are transactions of a commercial or non-commercial nature that take place through electronic means, i.e. by exchanging data messages. “Data message” means information generated, sent, received or stored by electronic, optical or similar means (Model Law on Electronic Commerce 1996 - MLEC Article 2(a)). Examples of electronic means include e-mail, messaging, electronic data interchange (EDI), short message system (SMS) and fax.

National law may accord full or partial legal validity to electronic transactions. This may happen because of a law, regulation or other written legislative text, through judicial decisions or by application of general legal principles. Article 5 MLEC establishes legal recognition on the basis of the principle of non-discrimination against the use of electronic means.

5. Legal recognition of data messages

Information shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message.

Legislation based on the same approach as the uniform model may differ in the language used.

See subsection 8(1) of the Electronic Transactions Act 1999 (Cth) of Australia:...
Country reports

- 15 completed studies
  Armenia, Azerbaijan, Bangladesh, Cambodia, Georgia, Kazakhstan, Lao PDR, Mongolia, Myanmar, Nepal, the Philippines, Timor-Leste, Tonga, Uzbekistan, Viet Nam

- 4 ongoing and planned
  Tajikistan, Turkmenistan, Tuvalu, Mexico (supported by ECLAC)

Cross-border Paperless Toolkit

Co-published by the WTO, in collaboration with ESCAP and UNCITRAL in 2022

- Aims at raising awareness of the technical and legal tools to adopt cross-border paperless trade systems and national single windows (NSWs)
- Builds on the Readiness Assessment Guide and the corresponding Checklists for cross-border paperless trade.

https://www.wto.org/english/res_e/publications_e/paperlesstrade2022_e.htm
Partnerships

- Readiness Assessment Guide: ESCAP-UNCITRAL-EIF
- CBPT Toolkit: ESCAP-UNCITRAL-WTO
- ASEAN
  - Framework Agreement identified in the Work plan on the implementation of ASEAN Agreement on E-Commerce
- Pacific Regional E-commerce Strategy and Roadmap
- ECLAC: multilingual Guide & Mexico+
Thank you