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6th meeting of the Interim Intergovernmental Steering Group
on Cross-border Paperless Trade Facilitation

Bangkok, 25 and 26 January 2021

Item 4 of the provisional agenda*

Report on progress made by the Legal and Technical Working Groups

Report on progress made by the Legal and Technical Working Groups in their mandated tasks

Note by the secretariat

Summary

The present document is a report on progress made by the Legal and Technical Working Groups on the preparation of supporting documents of the draft road map for the implementation of the substantive provisions of the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific. The Working Groups have focused on the further development of legal and technical readiness assessment checklists and an individual action plan template, as well as other supporting documents.

I. Progress made

1. Since the 5th meeting of the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation, held in March 2019, the Legal and Technical Working Groups have focused on three specific supporting documents of the draft road map for the implementation of the substantive provisions of the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific.¹ These documents are listed in the table.

* ESCAP/PTA/IISG/2021/L.1.

¹ ESCAP/PTA/IISG/2018/CRP.1.

Supporting documents

<i>Supporting documents</i>	<i>Relevant articles of the Framework Agreement</i>
Legal readiness checklist ^a	Article 12: Action plan
Technical readiness checklist ^b	Article 12: Action plan
Template for individual action plans ^c	Article 12: Action plan

^a ESCAP/PTA/IISG/2021/4.

^b ESCAP/PTA/IISG/2021/5.

^c ESCAP/PTA/IISG/2021/6.

2. The Legal and Technical Working Groups held two combined meetings in 2019, using the online conference facility supported by the secretariat. The Legal and Technical Working Groups, during their online meetings on 6 November 2019 and 17 December 2019, focused on issues of common interest to both groups, including developing a background note for a mutual recognition mechanism for trade-related data and documents in electronic form, improving the legal and technical readiness checklists, developing an online support platform for readiness assessments as well as templates for initiating and sharing lessons from (pilot) cross-border electronic data exchange.

3. The Legal and Technical Working Groups held their 7th combined meeting in Bangkok from 14 to 16 January 2020. It was attended by 27 nominated participants and 10 regional experts as well as representatives of the United Nations Commission on International Trade Law, with a view to making further progress on the preparation of supporting documents. During the joint sessions, participants worked on items of common interest, including improving the legal and technical readiness assessment checklists, establishing guidelines on the development of national policy frameworks for paperless trade, designing an individual action plan template, achieving a common understanding of mutual recognition mechanisms and further developing a database of cross-border paperless trade cases and instruments.

4. With respect to improving the completeness of current legal and technical readiness checklists, the secretariat informed the meeting participants that it used the legal and technical checklists in conducting readiness assessments in eight target countries of the two projects it had implemented, namely, Armenia, Bangladesh, Cambodia, Mongolia, Myanmar, Nepal, Timor-Leste and Uzbekistan. The international consultants for the projects also shared their experiences in using the checklists and briefly outlined proposed revisions. In connection with the checklists, an initial concept for the development of an online support platform for readiness assessments was also presented. The meeting participants further discussed revisions on the checklists and the development of an online support platform during the breakout sessions of the Working Groups.

5. The secretariat informed the meeting participants of its plan to carry out a study on the development of a national policy framework for (cross-border) paperless trade, shared a proposed table of contents for the planned study and invited the Working Group members to share suggestions and relevant examples of national policy frameworks that could be referenced.

6. The secretariat also informed the meeting participants that it had used the template for individual action plans in supporting the development of action plans in the eight countries where readiness assessments were conducted with some modifications to the template, including the addition of elements such as priority level and potential key agencies. The meeting participants further worked on the revision of the template in breakout sessions of the Working Groups.

7. Regarding a mutual recognition mechanism, the meeting participants heard presentations of regional experts on their initial work on studies on mutual recognition in cross-border paperless trade, and discussed and highlighted the following issues relevant to moving forward with the development of a mutual recognition mechanism:

(a) The need to clearly define the meaning of “substantially equivalent level of reliability”, a core stipulation in article 8 of the Framework Agreement;

(b) The need for more work on the legal aspects of mutual recognition, including consideration of the view that mutual recognition might be seen as a legal issue and interoperability as a technical issue;

(c) The need to differentiate mere cross-border electronic data exchange from cross-border mutual recognition, and as a consequence, the need to define criteria for mutual recognition;

(d) Mutual recognition mechanism arrangements were likely to vary depending on what was being recognized, such as the type of data/documents or business-to-business, business-to-government, government-to-government transactions/processes;

(e) The need to carefully review the wording of the provisions of the Framework Agreement, including definitions, when undertaking further work on mutual recognition in the context of the Agreement.

8. Regarding the cross-border paperless trade database, the secretariat briefly introduced the current beta version of the database and sought suggestions on its improvement. One suggestion for improvement was to include a method for users to ask or acquire additional information for listed projects and cases. The meeting participants noted the usefulness of developing the database and further worked on the improvement of the database in breakout sessions of the Working Groups.

9. The Legal Working Group, during a breakout session, worked on the improvement of the legal readiness checklist. The version incorporating revisions to the checklist is contained in ESCAP/PTA/IISG/2021/4. The Legal Working Group also made an effort to improve the cross-border paperless trade database, in particular classification and categorization of legal instruments. With respect to the online support platform for legal readiness assessment, the Working Group agreed that it should serve as a companion to the checklist by providing: (a) introductions to the topics contained in the various parts and sections; (b) explanatory notes, clarifications and other resources for certain questions; (c) references to relevant legislation and guides; (d) a glossary; and if possible (e) an introduction on how to carry out the assessment.

10. The Technical Working Group, during a breakout session, worked on the improvement of the technical readiness checklist and revised it as contained in ESCAP/PTA/IISG/2021/5. With respect to the template for individual action plans, the Working Group revised it as contained in ESCAP/PTA/IISG/2021/6. The Working Group also worked on the online support platform for technical assessment as well as the cross-border paperless trade database, deciding to

improve categorization of technical instruments in the database and incorporate relevant supporting documents as much as possible in the database, including the international standards implementation strategy, the cross-border paperless trade reference map and the template for sharing lessons learned from pilot projects on cross-border paperless trade.

11. The Technical Working Group discussed the misleading nature of the word “technical” in the name of the Working Group and shared the view that the nature of the tasks the Working Group had handled covered all operational aspects or implementation aspects of cross-border paperless trade. In that connection, the Working Group decided to request the Steering Group to consider changing the name of the Working Group to “Operational Working Group” or another name better representing the nature of its work.

12. Subsequently, the Working Groups held their 8th combined meeting, online, from 14 to 16 October 2020. It was attended by 40 nominated participants and 15 regional experts as well as a representative of the United Nations Commission on International Trade Law. During the meeting, the participants reviewed and further developed selected supporting documents and related tools, including an online guide for cross-border paperless trade readiness assessment that was developed by the Economic and Social Commission for Asia and the Pacific (ESCAP) and the United Nations Commission on International Trade Law,² a mutual recognition mechanism for trade-related data and documents in electronic form, a cross-border paperless trade database,³ a template for designing a national policy framework for paperless trade facilitation, a capacity-building strategy and a template for individual action plans. In addition, the participants reviewed progress made by member States with regard to cross-border paperless trade and shared their practices and experiences in implementing paperless and other relevant trade facilitation measures in response to the ongoing coronavirus disease (COVID-19) pandemic.

13. The participants from Bangladesh, Cambodia, China, Indonesia, Malaysia, Nepal, the Netherlands, the Republic of Korea, the Russian Federation, Tajikistan, Thailand and Turkey shared their progress in implementing cross-border paperless trade, including updates on the status of ratification of and/or accession to the Framework Agreement.

14. The secretariat made a presentation on the newly developed survey module on trade facilitation in times of crises and pandemic, including preliminary findings. A regional expert also presented findings from a subregional study on best practices with regard to trade facilitation in response to the pandemic in South-East Asia. The participants from Bangladesh, China, Nepal, the Republic of Korea and Turkey shared trade facilitation and paperless trade measures taken in response to the COVID-19 pandemic.

15. The participants discussed and highlighted the importance of engaging the private sector and development partners in the implementation of the Framework Agreement and requested the secretariat to report this view to the Steering Group in its reporting on the outcome of the meeting. The participants also discussed the possibility of allowing the participation of countries not parties to the Agreement in its implementation after its entry into force.

16. The Legal and Technical Working Groups decided to continue in operation with a focus on the development of supporting documents and related

² <https://readiness.digitalizetrade.org>.

³ <https://www.digitalizetrade.org>.

tools as much as possible until the 6th meeting of the Steering Group, which will be held on 25 and 26 January 2021. Subsequent operations will be subject to the decision of the Steering Group at that time.

II. Issues for consideration by the Steering Group

17. The Steering Group may wish to consider taking the following actions:

(a) Note the progress made by the Legal and Technical Working Groups in preparing the supporting documents of the draft road map for the implementation of the substantive provisions of the Framework Agreement;

(b) Consider the request from the Technical Working Group to change its name to “Operational Working Group” or another name better representing the nature of its work;

(c) Consider the view expressed by the Legal and Technical Working Groups on the importance of engaging the private sector and development partners in the implementation of the Framework Agreement;

(d) Further guide the Legal and Technical Working Groups on their mandated tasks.
