Proposal to amend the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific

Note by the secretariat

Summary

The present document provides background information and context for the Paperless Trade Council to consider amending the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific, specifically by adding the translation in the French language as an authentic version to facilitate accession to the Framework Agreement by French-speaking member States.

The Council may wish to consider and adopt the proposed amendment to the Framework Agreement in accordance with the procedures stipulated in article 20 thereof.

I. Background and context

1. The Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific was adopted by the member States in May 2016.1 When the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation negotiated the text of the Framework Agreement before its adoption, French-speaking member States did not participate in the process. Consequently, the text of the Framework Agreement was adopted with the specification of the Chinese-, English- and Russian-language texts as equally authentic,2 while the official languages of the Economic and Social Commission for Asia and the Pacific (ESCAP) are Chinese, English, French and Russian.


2 See testimonium of the Agreement, p. 13.
2. After the adoption of the Framework Agreement, the French delegation participated in several meetings\(^3\) of the Steering Group and expressed its interest in becoming a party to the Framework Agreement but also pointed out a language issue arising from a constitutional requirement that a certified true copy be available in the French language. The delegation requested the secretariat to explore ways to address the issue without renegotiating the text.

3. In this connection, the secretariat consulted the Treaty Section of the Office of Legal Affairs. The Treaty Section advised the secretariat that the text of the Framework Agreement may be amended by its parties in accordance with article 20 of the Framework Agreement, which reads as follows:

“Article 20 Procedures for amending the Framework Agreement

1. The text of the present Framework Agreement may be amended by the procedure specified in the present article.

2. Amendments to the present Framework Agreement may be proposed by any Party.

3. The text of any proposed amendment shall be circulated to all members of the Paperless Trade Council by the secretariat at least sixty (60) days before the Council meeting at which it is proposed for adoption.

4. An amendment shall be adopted by a two-thirds majority of the Parties present and voting at the meeting of the Paperless Trade Council. The amendment as adopted shall be communicated by the secretariat to the Secretary-General of the United Nations, who shall circulate it to all Parties for acceptance.

5. An amendment adopted in accordance with paragraph 4 of the present article shall enter into force for those Parties that have accepted it three (3) months after the amendment has been accepted by two thirds of the number of Parties at the time of its adoption. For any Party that accepts the amendment after its entry into force, the amendment shall enter into force three (3) months after the Party’s acceptance of the amendment.”

II. Proposal to amend the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific

4. Commission resolution 72/4, by which the Commission adopted the Framework Agreement, contains the French language version as an annex. To recognize the French-language text as equally authentic, the final sentence of the treaty text should be amended as follows: after English, insert French, and replace three with four. With all other parts of the treaty text remaining the same, the testimonium shall read, after the adoption of the proposed amendment, as follows:

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Framework Agreement, in a single copy in the Chinese, English, French and Russian languages, the four texts being equally authentic.

\(^3\) See ESCAP/74/6 for report of the 4th meeting and ESCAP/75/16 for report of the 5th meeting.
III. Issues for consideration by the Council

5. The Council may wish to consider taking the following actions:

   (a) To note the context, implications and procedures of the proposed amendment;

   (b) To adopt the amendment to recognize the French-language text of the Framework Agreement as an equally authentic version, as specified in paragraph 4 of the present document.