First Meeting of Legal and Technical Working Groups of the Interim Intergovernmental Steering Group on Cross-Border Paperless Trade Facilitation

Introduction to Interim Intergovernmental Steering Group and mandated tasks to the Working Groups

9-11 September 2015
Bangkok, Thailand

Trade and Investment Division
United Nations ESCAP
Mandate to work towards development of a regional arrangement on cross-border paperless trade facilitation

Mandate to establish Intergovernmental Steering Group for negotiating the draft text of a regional arrangement

May 2012

Aug. 2014

Apr. 2015 & Onward
Background for ESCAP Resolution 68/3

ESCAP Resolution on *Enabling paperless trade and the cross-border recognition of electronic data and documents* (adopted in May 2012)

- **Legal and technical barriers in information exchange (across borders)**

- **Increased implementation of (national) single window and paperless trade systems, but...**

- **Rise of regional and global production networks**

Need for cross-border paperless trade

International Supply Chain Integration
Challenges to moving forward on cross-border paperless trade

- Adoption of common International Standards
- Harmonization of legal frameworks
- Capacity gaps among the parties
- Cooperation between public and private sectors
- Lack of intergovernmental coordination mechanism
Overview of ESCAP Resolution 68/3

- Invites member States to work towards the development of regional arrangements on the facilitation of cross-border paperless trade

- And, request the Executive Secretary to:

  1) support and facilitate the process for the development of regional arrangements on the facilitation of cross-border paperless trade, including by conducting studies, developing potential options, and in this regard to present its results to the Committee on Trade and Investment at its third session

  2) ensure that the regional arrangements take into account and are consistent with the existing international and regional agreements, mechanisms, and undertakings...

  3) continue and further strengthen the secretariat’s support for capacity-building activities
Progress in Implementing
ESCAP Resolution 68/3

- 36 members and associate members have nominated focal points to support implementation (as of February 2015)

- Designated webpage for implementation: to maximize transparency and availability of information related to implementation progress (to be updated)
  http://unnext.unescap.org/reso683.asp

- Members are kindly requested to update existing national focal points or nominate new ones
Progress in Implementing ESCAP Resolution 68/3

Conduct Study

Draft text of an Agreement on Cross-Border Paperless Trade Facilitation proposed in Annex

Expert Review

ESCAP brings together technical & legal experts to refine the text

Member Consultation

4 (Sub)regional informal consultations are held with Member States on the text

Report To CTI

ESCAP Committee on Trade and Inv. recommends formal negotiation begins

First Inter Governmental Meeting

First intergovernmental negotiation of the text of the regional arrangement


Nov. 2012 - Mar. 2013

Jul. – Nov. 2013

Nov. 2013

April 2014

ERM: Expert Review Meeting

EGM: Expert Group Meeting
Enhancing Regional Connectivity: Towards a Regional Arrangement for the Facilitation of Cross-border Paperless Trade, Studies in Trade and Investment No. 78

Date: Wednesday, January 1, 2014
Type: Books

ABSTRACT
The principal aim of this publication is to analyze the current status of paperless trade implementation in the region and assess a practical approach to the facilitation of cross-border paperless trade in the Asia-Pacific region, as this will contribute to regional connectivity. With world-leading paperless trade systems already in place in several countries of Asia and the Pacific, including a few cases of successful cross-border paperless trade data exchange, the region is fast moving towards a paperless trade environment.

The intrinsic cross-border nature of international trade has resulted in increasing demand for facilitation of cross-border paperless trade, as more and more countries in the region implement this approach. However, facilitating cross-border paperless trade poses more challenges than those involved in implementing paperless trade at the national level, mainly because it requires the coordination and harmonization of different legal, regulatory and technical requirements in two or more countries. While the private sector can also facilitate cross-border paperless trade through innovations in business practices, the procedure for coordinating and harmonizing the legal, regulatory and technical requirements ultimately has to rely on an intergovernmental mechanism. This increasing demand for facilitation of cross-border paperless trade and the necessity for an

Benefits of Cross-Border Paperless Trade

Estimating the Benefits of Cross-Border Paperless Trade

**Date:** Tuesday, June 24, 2014

**Type:** Books

**ABSTRACT**

This report estimates the possible economic benefits—export gains, and cost savings—from partial or full implementation of cross-border paperless trade facilitation measures. Simulation results suggest that cross-border paperless trade has significant potential to reduce trade costs and boost trade in the Asia-Pacific region. Moreover, there is every reason to believe that these are low-end estimates of the possible economic gains from reform, due to the way in which the simulations are set up on a technical level, and the fact that they focus on implementation of cross-border measures only. In reality, paperless trade is typically implemented on a broader basis, which would tend to increase the level of export gains and cost savings reported here.

Annual regional export gains:
- $36 bn (for partial implementation) to $257 bn (full implementation)

Export time reduction: 24% to 44%

Export cost reduction: 17% to 31%

Total direct cost savings across all trade: $1bn to $7bn annually

Ad Hoc Intergovernmental Meeting on a Regional Arrangement for the Facilitation of Cross-border Paperless Trade

- Held in April 2014
- 30 ESCAP member states participated
- Collectively reviewed and improved the draft text of a regional arrangement, but needed more time to finalize it.
- Decided to establish an Interim Intergovernmental Steering Group (ISG) on Cross-border Paperless Trade Facilitation to:
  1) Further improve the draft text of the regional arrangement
  2) Prepare a draft roadmap for the implementation of substantive provisions in the draft text
ESCAP resolution 70/6

- Adopted at the 70th session of ESCAP Commission in August 2014 and endorsed the decision of the Ad Hoc Intergovernmental Meeting to create a Steering Group.

- Noted that the work of the interim steering group on cross-border paperless trade facilitation would complement the work being done in relation to the implementation of the WTO Trade Facilitation Agreement.

- Requests the Executive Secretary to support and facilitate the establishment and operation of the interim intergovernmental steering group on cross-border paperless trade facilitation.
Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation

- Established in accordance with the Resolution 70/6
- Held the first meeting on 1-3 April 2015
  - Made much progress in improving the draft text
  - Recognized need for having designated group of experts to deliver mandated tasks
  - Decided to create Legal and Technical Working Groups under it
- Website of the Steering Group
  http://communities.unescap.org/cross-border-paperless-trade-facilitation
Terms of References of the Legal and Technical Working Groups

1. **Names**
The two working groups under the Steering Group shall be called the Legal Working Group and Technical Working Group.

2. **Membership**
Officials and/or experts nominated by the national focal points on implementation of Commission resolution 68/3 or by the Governments of ESCAP members and associate members.

3. **Functions**
The Legal Working Group and Technical Working Group shall further improve the draft text of the regional arrangement as a potential intergovernmental agreement, prepare a draft road map for the implementation of substantive provisions in the draft text and perform any other tasks directed by the Steering Group.
1. The Legal Working Group shall carry out the following duties:
   (a) To lead overall revision of the draft text of the regional arrangement;
   (b) To review and revise legal provisions in the draft text of the regional arrangement;
   (c) To prepare the legal provisions of the draft road map;
   (d) To carry out any other tasks assigned to it by the Steering Group.

2. The Technical Working Group shall carry out the following duties:
   (a) To take responsibility for preparing the draft road map for the implementation of substantive provisions in the draft text;
   (b) To review and revise technical provisions in the draft text of the regional arrangement;
   (c) To prepare the technical provisions in the draft road map;
   (d) To carry out any other tasks assigned to it by the Steering Group.
4. **Mode of operation**
   1. The Legal Working Group and Technical Working Group shall have both physical and virtual meetings, with at least two physical meetings between each of the meetings of the Steering Group. In each physical meeting, the Legal Working Group and Technical Working Group shall have joint sessions to coordinate their respective work.
   2. The Legal Working Group and Technical Working Group may each elect a Chair and Vice-Chair(s).
   3. Participation in the meetings of the Legal Working Group and Technical Working Group will be on a self-financed basis.
   4. To the extent possible, physical meetings shall be held in conjunction with other main ESCAP events related to trade.
   5. The Legal Working Group and Technical Working Group may invite relevant regional experts, including experts of the United Nations Network of Experts for Paperless Trade in Asia and the Pacific (UNNExT), to assist in carrying out their duties.
6. The Legal Working Group and Technical Working Group shall cease to exist once they have completed their duties.

7. All the meetings will be conducted in English only.

8. The decisions of the Legal Working Group and Technical Working Group shall be made on a consensus basis.

5. Reporting
The Legal Working Group and Technical Working Group shall report progress made in conducting their duties to each meeting of the Steering Group.

6. Secretariat
The Trade Facilitation Unit of the ESCAP secretariat shall serve as the secretariat of the Legal Working Group and Technical Working Group.
It is a UN treaty draft text

It is a voluntary agreement. Once text is agreed by all ESCAP Members, each Member will have the opportunity to decide to join or not to join, and when.

It is a framework agreement (FA). The primary focus of the draft text of the regional arrangement is facilitation of cross-border paperless trade, not cross-border paperless trade itself.

Most provisions center on measures facilitating cross-border paperless trade, not on detailed prescription on how to engage in cross-border paperless trade. In line with this focus, most provisions are best endeavor in nature.

Adoption of the FA will likely be followed by development (and voluntary adoption) by all or some participants in the framework agreement of more detailed protocols to electronically exchange specific data and documents.
Key Features

- Good combination of binding and non-binding nature
- Key general principles for connectivity and interoperability
- Comprehensive Action plan for practical implementation
- Unique and ready region-wide intergovernmental Platform
- Strong Capacity Building Component
(1) **Good combination of binding and non-binding nature**

- The regional arrangement takes the form of a binding intergovernmental instrument: a UN treaty
  - * Limit of non-binding instrument: example of APEC
- However, it entails non-binding and flexible mechanisms
  1) Becoming a party to it is voluntary: only willing members can join as and when they feel ready and comfortable
  2) Most of the provisions are best endeavour
  3) Focus is facilitation, not cross-border trade data exchange itself
(2) Unique and ready region-wide intergovernmental Platform

- There is no existing intergovernmental platform to work on cross-border paperless trade: No duplication
  ⇒ Challenges of bilateral approaches

- ESCAP can provide a broad and region-wide intergovernmental platform
  - APEC: only 21 economies (five of them being in America)
  - ASEAN: only 10 countries in Southeast Asia
  - SAARC: only 8 in South Asia
  - ECO: only 10 Islamic countries
(3) Strong Capacity Building Component

- The region is a home to several world-leading countries as well as many countries in need.
  - 12 Least Developed Countries (LDCs)
  - 12 Land Locked Developing Countries (LLDCs)
  - Many Small Island Developing states (SIDs)
- Special consideration to requests from LDCs and LLDCs
- Development of diverse technical assistance/support mechanisms
- Engagement of development partners
(4) Comprehensive Action plan for practical implementation

- To address legal and technical issues in cross-border paperless trade on a consensus basis
- Expected to result in the emergence of practical standardized tools, solutions and protocols for cross-border paperless trade

1) Development of technical and legal measures, including readiness assessment tools,
2) Detailed actions for designing pilot projects and subsequent actual projects,
3) Capacity building support, and
4) Information and experience sharing activities.
(5) Key general principles for connectivity & interoperability

- Functional equivalence
- Promotion of interoperability
- Improved trade facilitation and regulatory compliance
- Cooperation between the public and private sectors
- (Technology neutrality)
- (Non-discrimination of the use of electronic communications)
# ESCAP Capacity Building Support related to Trade Facilitation and Paperless Trade

<table>
<thead>
<tr>
<th>Number</th>
<th>Capacity-building activities</th>
<th>Date and venue</th>
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<tbody>
<tr>
<td>5</td>
<td>ADB-ESCAP National Training Workshop on Trade and Transport Facilitation Monitoring Mechanism</td>
<td>15-17 April 2014, Dhillikhet, Nepal</td>
<td>16 Asia Workshop on Good Practices in Agricultural Trade Facilitation in South and South-East Asia organized by the Network for Knowledge Transfer on Sustainable Agricultural Technologies and Improved Market Linkages in South and Southeast Asia 26 September 2014, Bangkok</td>
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<td>7</td>
<td>ADB-ESCAP National Training Workshop on Trade and Transport Facilitation Monitoring Mechanism</td>
<td>28-29 April 2014, Dhaka</td>
<td>18 International Seminar on Trade Facilitation in North-East Asia 18 November 2014, Vladivostok, Russian Federation</td>
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<td>8</td>
<td>Training on Electronic Traceability for Agricultural Trade Facilitation and Smallholder Integration</td>
<td>26-28 May 2014, Kathmandu</td>
<td>19 Regional Training of Trainers Workshop on Trade Facilitation and Paperless Systems for Agrifood Products 15-17 December 2014, Bangkok</td>
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<td>9</td>
<td>Training on Electronic Traceability for Agricultural Trade Facilitation and Smallholder Integration</td>
<td>16-18 June 2014, Thimpu</td>
<td>20 UNNEXT Capacity Building Workshop on Data Harmonization and Modelling for Single Window Environment in Maldives 16-18 December 2014, Male</td>
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Thank you

www.unescap.org/our-work/trade-investment/trade-facilitation

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