



REPORT OF THE FIFTH MEETING OF LEGAL AND TECHNICAL WORKING GROUPS OF THE INTERIM INTERGOVERNMENTAL STEERING GROUP ON CROSS-BORDER PAPERLESS TRADE FACILITATION

❖ Dates: 20 – 21 March 2018

❖ Venue: CR-4, UNCC, Bangkok

1. The meeting, which brought together 42 nominated participants and 7 regional experts, was opened with remarks by Mr. Yann Duval, Chief, Trade Policy and Facilitation Section, Trade, Investment and Innovation Division of the United Nations ESCAP.
2. As the only participating chair of both Legal and Technical Working Groups, Mr. A.H.M. Shafiquzzaman of Bangladesh chaired the 5th meeting.
3. The meeting adopted the tentative agenda without any modifications.
4. The secretariat made a presentation on progress made by the Legal and Technical Working Groups in preparing a draft road map since the 4th meeting of Legal and Technical Working Groups in March 2017. The presentation highlighted the Technical Working Group (TWG) virtual meeting history, Legal Working Group (LWG) only review of the Legal Gap Checklist and overview of the draft road map and its supporting documents.
5. Recognizing the need to improve maturity of legal and technical gap checklists, the two working groups held joint sessions in the morning of 20 March, focusing on documents of common interest to both groups, and then they held half-day breakout sessions in the afternoon of 20 March respectively (See Annexes 2 and 3 for details on activities conducted and decisions made by each working group).
6. The meeting briefly reviewed the current draft road map and decided to add titles of articles to article numbers for easier reference by readers to provisions of the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (FA-PT).



7. On the draft terms of reference and rules of procedure for the Paperless Trade Council and the Standing Committee, Mr. Castellani briefly introduced the draft, including a need to incorporate inclusiveness to accommodate participation by other ESCAP members than parties to it, and highlighted its draft nature until the Paperless Trade Council and the Standing Committee adopts it after entry into force of the FA-PT. The meeting took note of the draft.
8. Regarding background note on mutual recognition, the following discussions and interventions were made:
 - The secretariat updated the meeting on progress by the TWG on the development of the background note so far as follows:
 - ① The TWG focused its effort on developing this background note in all virtual meetings;
 - ② Much time has been spent to collect relevant literature and references to draw lessons from other previous and existing cases;
 - ③ Effort has also focused on deciding scope of the background note, in particular defining its table of contents;
 - ④ In preparing the background note, the TWG started from a more specific approach based on a contribution paper prepared by a UNNExT expert and then moved to defining more basic and fundamental matters in mutual recognition, including its necessity, possible options and lessons from relevant existing cases;
 - ⑤ The TWG created a Google Document to share the draft real-time and revise it interactively among selected experts in a task team; the secretariat showed the current draft by visiting the Google Document;
 - Mr. Sung Heun Ha, as the lead of a task team in the TWG to draft the background note, also provided a brief explanation on the structure of the current draft and approach taken.



- On the nature and status of the background note, the meeting noted that it would remain as a draft and a reference as one of supporting documents of the draft road map, which would be further reviewed and perused by the Paperless Trade Council and the Standing Committee after the FA-PT enters into force.
 - On the linkage between mutual recognition mechanism and institutional arrangement under Article 11 of the FA-PT, the secretariat informed the meeting that the current background note looks into possible option of linking institutional arrangements to be established in accordance with Article 11 of the FA-PT in operationalizing mutual recognition mechanism.
 - With regard to the purpose of listing all the possible and available options of mutual recognition mechanisms in the background note, the meeting noted that it was for the Paperless Trade Council and the Standing Committee, once operational, to understand available options and decide on best option in the context of the FA-PT quickly, rather than re-inventing wheels.
 - On the next step for furthering the background note, the secretariat informed the meeting that the development of a background note would be open to interested members and experts of both working groups, so that legal experts can also contribute to the current draft.
9. On country reports on pilot cross-border paperless trade initiatives and projects, all the participants updated the meeting on their progress in paperless trade, and several countries reported their cross-border data exchange initiatives as follows:
- Azerbaijan reported on its cross-border paperless trade initiatives, including bilateral data exchange on pre-arrival information, e-signature mutual recognition and electronic transit document project with Georgia and Kazakhstan with support of the Asian Development Bank (ADB).



- China reported on its cross-border paperless data exchange using the China Inspection & Quarantine E-Cert System, including its history, benefits materialized, current implementation status and future plan.
- Indonesia reported its progress in cross-border electronic data exchange on certificate of origin under the ASEAN Single Window (ASW) as well as electronic exchange of sanitary and phyto-sanitary certificates through the ASW, the IPPC ePhyto project and also bilaterally with the Netherlands and New Zealand.
- Islamic Republic of Iran reported that its Customs has initiated cross-border data exchange with neighboring countries; it also reported its initiative for mutual recognition of digital signature with Turkey.
- Lao People's Democratic Republic reported its participation in pilot project on electronic certificate of origin under the ASW.
- Malaysia reported its participation in cross-border electronic data exchange under the ASW, including exchange of electronic certificate of origin.
- Myanmar reported that it is in the process of developing a system for electronic certificate of origin to participate in the ASW.
- Pakistan reported that it signed an MoU with China on digital trade data exchange in March 2018 as a first step and plans to accept digital data in the second step; it also informed the meeting that it joined e-TIR and has participated in paperless trade initiatives under the Economic Cooperation Organization (ECO).
- Philippines reported that its recently established Tradenet would be connected to the ASW; it also reported that testing on exchange of electronic certificate of origin with Brunei Darussalam, Cambodia, Indonesia, Singapore and Viet Nam is scheduled in March 2018.



- Republic of Korea reported its electronic exchange of certificate of origin data with China since December 2016 and its plan on new pilot project with Singapore and Viet Nam on electronic exchange of certificate of origin data using blockchain technology.
 - Russian Federation reported that it is in the process of revising national legislation and customs codes to better participate in paperless trade data exchange under the FA-PT, WTO Agreement on Trade facilitation and commitment in the Eurasian Economic Union (EAEU).
 - Samoa reported its involvement in the IPPC e-Phyto project as a pilot country, the only participating country from the Pacific.
 - Thailand reported that it has participated in cross-border exchange of electronic certificate of origin and ASEAN Customs declaration under the ASW.
10. The LWG and TWG reconvened in a joint plenary session and heard the reports from the chairs of each working group on progress made on their respective tasks during the breakout sessions (see Annexes 2 and 3 for details).
11. The meeting agreed that the LWG and the TWG would continue to carry out their mandated tasks, focusing on improving the draft road map and its supporting documents, until the next meeting of the Steering Group, which is tentatively scheduled to be held in March/April 2019. Mr. Shafiquzzaman agreed to report progress made by the 5th meeting of the Legal and Technical Working Groups to the 4th meeting of the Interim Intergovernmental Steering Group with the support of the secretariat.
12. On any other matters, the meeting did not have any other matters to discuss.
13. The meeting was closed with remarks by Mr. Shafiquzzaman, the chair of the 5th meeting.

Annexes: 1. Final Agenda

- 2. Main activities and decisions of the Legal Working Group
 - 3. Main activities and decisions of the Technical Working Group
 - 4. Final List of participants
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ANNEX 1. FINAL AGENDA

- Item 1 Opening of the meeting
 (a) Opening remarks
 (b) Adoption of the agenda
- Item 2 Update on progress made by the Legal and Technical Working Groups in preparing a draft road map for implementation of the substantive provisions of the Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific since the fourth meeting
- Item 3 Review of draft road map and selected supporting documents
 1) Draft road map
 2) Terms of reference and rules of procedure for the Council and the Standing Committee
 3) Background note on mutual recognition for trade-related data and documents in electronic form
- Item 4 Country reports on pilot cross-border paperless trade initiatives and projects
- Item 5 Working group breakout session
 1) Legal Working Group (LWG): MR-G
 • LWG leadership and 2018 work plan
 • Legal gap checklist
 • Other matters
 2) Technical Working Group (TWG): CR-4
 • TWG leadership and 2018 work plan
 • Technical gap checklist
 • Other matters
- Item 6 Review of progress made by each Working Group
- Item 7 Other matters

 (a) Discussion on future work plan, including reporting to the Steering Group
 (b) Any other business
- Item 8 Closing



ANNEX 2. MAIN ACTIVITIES AND DECISIONS OF THE LEGAL WORKING GROUP

- 1) Mr. Shafiq, Joint Secretary, Ministry of Commerce, Bangladesh facilitated the meeting as the on-going Chair of the Legal Working Group. Mr. Sudattha Silva, Deputy Director of Customs for ICT, Sri Lanka was elected as interim Vice-Chair. His confirmation as Vice-Chair for future meetings is subject to approval from his administration
- 2) Participants discussed the 2018 Work Plan for the LWG. As the LWG does not meet as often as the Technical Working Group (TWG), members discussed three possibilities: 1) to have virtual meetings as the TWG does; 2) to participate in the virtual meetings of TWG; and 3) to have another physical meeting in between of current meeting and next meeting schedule in March 2019 back-to-back with the Steering Group Meeting. Members agreed to have next physical meeting together with the next Interim Intergovernmental Steering Group meeting and join the virtual meetings of the TWG if the concerned topics have legal implications, for example documents on mutual recognition. The Secretariat will circulate an invitation to members, once the meeting schedule and agenda of relevant virtual TWG meetings are confirmed.
- 3) Mr. Bryan Tan made a brief introduction of the Legal Gap Checklist and led the subsequent discussion. At the meeting, significant progress has been made on clearing the list of questions in the current version (version 0.7). Two outstanding areas that need further deliberation are 1) cross-border data flows for paperless trade and 2) data retention and electronic archiving. Members suggested that the questions in the Checklist shall be grouped into two categories: basic questions and advanced questions. Advanced questions would cover issues such as competition law, IP protection, and e-payment. Members also requested the questions to be formulated with positive and open language rather than simple yes/no questions.
- 4) During the discussion, it was agreed that an introduction would be added to the Checklist, specifying that the Checklist is not a tool to assess the legal readiness for becoming parties to the Framework Agreement, but a tool to self-identify potential barriers to cross-border paperless trade and to facilitate development of action plans by countries after they become parties. It was clarified that use of the Checklist is fully voluntary and countries using it would have no obligations to share results of their self-assessments.
- 5) To avoid potential misunderstanding, members agreed that a guideline on legal issues for cross-border paperless trade could be developed, and the Checklist would be embedded in the guideline, which would clarify the questions and provide examples on how to use the Checklist. In light of this



discussion, the Legal Gap Checklist was tentatively renamed as ‘Guideline on Assessing Legal Gaps and Barriers for Cross-border Paperless Trade’, and further work would build on it.

- 6) The LWG requested the Secretariat, in collaboration with UNCITRAL and UNNExT experts, to support the further development of the Guideline, including revising the Checklist. The Secretariat would organize one or more virtual review of the document between now and the next meeting of the Interim Intergovernmental Steering Group, tentatively set for March 2019.



ANNEX 3. MAIN ACTIVITIES AND DECISIONS OF THE TECHNICAL WORKING GROUP

- 1) The Technical Working Group (TWG) elected Mr. Muwasiq Noor from Indonesia and Mr. Zorikto Gombain from Russian Federation as vice-chairs. Mr. Muwasiq Noor moderated the meeting.
- 2) The meeting decided to continue its practice of organizing virtual meeting once every two months, focusing on improving background note on mutual recognition and technical gap checklist as action items for 2018.
- 3) The meeting requested the secretariat to add all the participants of the current meeting to the TWG Group mail and circulate an email requesting their additional proposal for 2018 TWG action items after the meeting. The secretariat informed the meeting that it might propose a physical meeting in the later part of 2018 after having two virtual meetings, subject to resource availability and interest of TWG members, to expedite delivery of the selected 2018 action items.
- 4) The meeting reviewed the current technical gap checklist based on comments of Mr. Sugamata. The meeting had a chance to get feedback from participants from countries on their understanding on the current checklist. The meeting decided to continue improving the checklist in subsequent virtual meetings, including adding more detailed description on certain unclear question items in their corresponding annotation, to improve its user-friendliness.
- 5) The meeting requested the secretariat to circulate the revised checklist to all the participants through the TWG Group Mail for their review/comments/suggestions, so that it can be upgraded to the next version in the next virtual meeting in early May 2018 and subsequently better used voluntarily by interested stakeholders.



ANNEX 4. FINAL LIST OF PARTICIPANTS

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

20-21 March 2018
Bangkok, Thailand

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