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Economic and Social Commission for Asia and the Pacific

Second Meeting of the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation

Bangkok, 23-25 March 2016

Item 3 of the provisional agenda*

**Improvement of the draft text of the regional arrangement
for the facilitation of cross-border paperless trade**

**Proposed amendments to the draft text of the regional
arrangement for the facilitation of cross-border paperless
trade**

1. The Legal Working Group proposes the following amendments to the current draft text of the regional arrangement for the facilitation of cross-border paperless trade (E/ESCAP/PTA/IISG(2)/2), based on the consensus reached through negotiation at the third meeting of the Legal and Technical Working Groups held on 21-23 March 2016, as appears below:

Title

2. The title is to be Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific, with removal of bracket on the word “Framework” in all the provisions.

Article 3

Definitions

3. The word ‘sale of’ is replaced with the words ‘trade in’ in paragraph (f) of Article 3, in order to harmonize this with the language of paragraph (a) of Article 3.

Article 5

General principles

4. The word “Technology neutrality” is to be replaced with “Technological neutrality” to align it with the wording in the benchmarked reference (United Nations Convention on the Use of Electronic Communications in International Contracts).

Article 6

National policy framework, enabling domestic legal environment and paperless trade committee

5. The current paragraph 2 is to be replaced with “The Parties shall endeavour to create an enabling national legislation for paperless trade, in particular addressing the functions of the national operators for cross-border paperless trade, taking into consideration international standards and best practices, if applicable.” This new text is linked to the deletion of Article 11.

Article 8

Cross-border mutual recognition of trade-related data and documents in electronic form

6. The bracketed word “may” is to be deleted in paragraph 1.

7. The bracketed paragraph 3 is to be replaced with “The Parties may enter into bilateral and multilateral arrangements to operationalize cross border mutual recognition of trade-related data and documents in electronic form, in a manner consistent with the principle of transboundary trust environment and all the other general principles provided that the provisions of these bilateral and multilateral arrangements will not contradict the present agreement.”

Article 9

International standards for exchange of trade-related data and documents in electronic form

8. In paragraph 1, the words “regional and global” are to be deleted, and the words “communications protocols” are to be replaced with the words “means of communication.”

Article 10

Relation with other legal instruments enabling cross-border paperless trade

9. In paragraph 1, the wording is to be changed to “The Parties may, where appropriate, adopt relevant international legal instruments concluded by United Nations bodies and other international organizations.”

Article 11

Legal liability framework

10. This article is to be deleted, with change of subsequent article numbers accordingly.

Article 12

Institutional arrangements

11. The words “and the Executive Secretary of ESCAP” in paragraph 1 are to be deleted.

12. A new paragraph 6 is to be added, which reads as “The Council and the Standing Committee may, in their competence determined in the rules of procedure, adopt protocols on specific legal, technical and organizational matters. The requirements for entry into force of any protocol shall be established in that instrument.”

Article 13
Action plan

13. The bracketed words “endeavour to” are to be deleted.

Article 16 bis
Protocol

14. This article is to be deleted, in accordance with a decision to add a new paragraph 6 in Article 12.

Article 19
Entry into force

15. The bracket on five (5) in paragraph 1 is to be removed.

16. The words “consented to be bound by” are to be replaced with “deposited their instruments of ratification, acceptance, approval and accession to.”

Article 20
Procedures for amending the Framework Agreement

17. The bracket on paragraph 4 is to be removed.

18. The wording of the current paragraph 5 is to be replaced with “An amendment adopted in accordance with paragraph 4 of the present article shall enter into force for those Parties that have accepted it 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 will enter into force 3 months after the Party’s acceptance of the amendment.”

Article 23
Suspension of validity

19. The bracket on five (5) is to be removed.
