

Distr.: For participants only
11 April 2014

English only

Economic and Social Commission for Asia and the Pacific

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

Bangkok, 22-24 April 2014

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

Bangladesh

1. Article 6: Para 1 of this article may be modified as “The Parties shall endeavor to establish a national policy framework for paperless trade, which may define targets and implementation strategies, allocate resources, and a legislative framework.” In Para 3, the word “national” in the last sentence may be deleted.
2. Article 7: Para 2 of this article may be modified as “In developing national Single Window systems or upgrading existing one, the Parties are encouraged to make them consistent with the general principles provided in this Agreement [Framework Agreement].”
3. Article 8: Para 2 of this article may be modified as “The substantially equivalent level of reliability would be mutually agreed upon among the Parties through the institutional arrangement established under this Agreement [Framework Agreement].”
4. Article 12: Para 2 of this article may be modified as “The Standing Committee shall be composed of senior representatives from both public and private sector of each party and will meet twice in a year or more if required.”
5. Article 14: In Para 2, the words “on a voluntary basis” may be removed from the agreement.
6. Article 15: The word “shall” in the second line under para 1 may be replaced by the word “may”.
7. Article 16: The following sentence may be added in Para 1 – “The Parties recognize that the Least Developed Countries may need technical and financial assistance to develop technical infrastructure and ensure creating a legally enabling environment which are essential for facilitating cross-border exchange of trade-related data and documents in electronic form.”
8. Article 17: Para 1 of this article may be modified as “Any Dispute that may arise among the Parties regarding the interpretation and application of this Agreement [Framework Agreement] shall be settled amicably by proper negotiation or consultation among the Parties concerned.”

9. Article 20: Para 3 of this article may be modified as “The text of any proposed amendment shall be circulated to all members of the Council by the Secretariat at least sixty (60) days before the Council meeting at which it is proposed for adoption.”

China

10. To use “Guidelines”, “Model Law” or “Framework Arrangement” instead of “Agreement”. Because we believe that the current content of the draft text is not mature enough to support an “agreement”. It is more like a set of guidelines.

11. To add “With recognition of rights to regulate” before para 1 of Article 5. It shall read: “With recognition of rights to regulate, this [Agreement [Framework Agreement]] shall be guided by the following general principles”. This proposal is to recognize the rights of the parties to regulate the trade activities within their respective territories, and to admit that all the cooperation between parties is under above condition.

12. To delete para 1 and para 3 of Article 5. Because there are no clear and well-recognized definitions of “technology neutrality” and “Non-discrimination of the use of electronic communications” in the international community. We should be aware of possible legal risks.

13. To delete “national” in Article 7 and those in relevant paras accordingly. According to “Recommendation and Guidelines on establishing a Single Window” by United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), a Single Window “is defined as a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfil all import, export, and transit-related regulatory requirements”. And it is also mentioned that “The appropriate agency to lead the establishment and operation of a Single Window will vary from country to country depending on legal, political and organisational issues”. To avoid any possible misleading, or any implication that a Single Window is necessarily a national authority, we propose above deletion.

14. Regarding with the para 2-6 of Article 17, since the United Nations Commission on International Trade Law (UNCITRAL) is working on a “Online dispute resolution for cross-border electronic commerce transactions: draft procedural rules”, we need further clarification whether UNCITRAL’s work has been reflected in the current draft text.

Russian Federation

15. Article 1: To put a following footnote after “interoperability”: “selected interoperability guidelines are enlisted in Annex 1 to the Agreement”. Then, add the following text at the end of the document:

16. Annex 1. Interoperability Guidelines

(a) Unification. Interoperable ICT should have unified forms of information, while maintaining the unique content.

(b) Scalability. Interoperable systems should have and maintain the capacity to enroll new participants both from within the country and from outside the country, enabling them to quickly start operating the system.

- (c) Equal reliability of infrastructure, which applies common security requirements to all of the participants.
 - (d) Legalization of electronic documents, ensuring that issued e-documents are equally recognized by respective jurisdictions (e-apostille).
 - (e) Client-oriented architecture.
 - (f) Systematization, which includes three main components:
 - (i) Consistency of organizational, legal and technical arrangements;
 - (ii) Consistency in reliability structures and infrastructure systems;
 - (iii) Moving from bilateral interoperability arrangements towards multi-vectored ones, where appropriate.
-