NATIONAL WORKSHOP ON ESTABLISHING A SINGLE WINDOW IN MONGOLIA

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Legal Issues related to Electronic Single Window

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Outline

- Single Window: Definition & How it works
- Electronic Transaction
- Personal Data Protection
- Information Security
- Evidential Issues
- Confidentiality
- Other Issues
Definition

- There is no single definitive viewpoint of what a single window system should be.
- A common definition of the term "Single Window" as provided by the UN/CEFACT Recommendation 33 is:

  "A facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfill all import, export, and transit-related regulatory requirements. “
ASEAN - single window is defined as the environment where National Single Windows of Member countries operate and integrate.

While the National Single Window is a system which enables:
- a single submission of data and information;
- a single and synchronous processing of data and information; and
- a single decision-making for customs release and clearance.

A single decision-making shall be uniformly interpreted as a single point of decision for the release of cargoes by the Customs on the basis of decisions, if required, taken by line ministries and agencies and communicated in a timely manner to the Customs.
Electronic Transaction

- Recognition of electronic documents/records
- Recognition of submission of electronic documents/records
- Recognition of the whole process/transactions
- Recognition of electronic signature
Regional and International Instruments

- UNCITRAL Model Law on Electronic Contract
- UNCITRAL Model Law on International Electronic Contracting
- UNCITRAL Model Law on Electronic Signature
- EU Directive on Electronic Commerce
- EU Directive on Electronic Signature
National Legislations

- Singapore
- Malaysia
- Thailand
- Phillipines
- And many many more.

All these laws address the issues mentioned.
Personal Data Protection

- Protection of Personal Data
- Data Protection Principles
- Rights of Data Subject
- Offences
Regional and International Instruments

- OECD Guidelines
- Council of Europe Convention
- EU Directive
- APEC Privacy Framework
National Legislations

- More than 90 countries in the world have adopted or in the process of adopting comprehensive legislation to protect personal data.
- In this region, Malaysia, Thailand, Hong Kong, Japan, Australia, New Zealand, Macao, etc.
Information Security

- A need to have an appropriate law to prevent and minimise the threats to the information systems constituting the single window.
- Issues that need to be addressed:
  - Basic Hacking
  - Further Hacking
  - Phishing
  - Abuse of Communications System, etc
National Legislations

- Council of Europe Convention on Cybercrimes
- Malaysia
- Singapore
- Hong Kong
- Thailand, etc
Evidential Issues

- The Evidence Law will have to be amended to accommodate electronic documents/evidence
Confidentiality

- In many countries, any confidential information submitted to the government, or that belongs to the government, is protected from disclosure. For eg in Malaysia, the OSA.
- This will have to be observed as well, although disclosure is allowed with consent of the submitting party.
Other Issues

The relevant rules and regulations in Mongolia need to be examined in view of facilitating single window
Eg. The Regulations on Customs, Regulations on Import & Export, Regulation on Taxation etc
The Electronic Payment System needs to be created. The Legal Infrastructure will have to be in place.

Who should bear the liability in case of any damages incurred? Depending on who the lead agency is? Liability is on the lead agency and its agents.
THANK YOU

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