

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

❖ Dates: 21 – 22 March 2017

❖ Venue: CR-4, UNCC, Bangkok

1. The meeting, which brought together 46 nominated participants and 10 regional experts and observers, was opened with remarks by Mr. Yann Duval, Chief, Trade Facilitation Unit, Trade, Investment and Innovation Division of the United Nations ESCAP.
2. With absence of the chair of the Interim Intergovernmental Steering Group as well as the chairs of both Legal and Technical Working Groups, the meeting elected Mr. A.H.M. Shafiqzaman of Bangladesh as the interim chair of the 4<sup>th</sup> meeting.
3. The meeting adopted the tentative annotated 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 3<sup>rd</sup> meeting of Legal and Technical Working Groups in March 2016. The presentation highlighted the TWG virtual meeting history, the contributions from UNNEXt experts, overview of the draft road map and its supporting documents.
5. Recognizing that the draft road map itself and many of supporting documents need to be reviewed by both working groups, the two working groups held more joint sessions (one full day on 21 March) than breakout sessions (half day on 22 March) during the meeting (See Annexes 2 and 3 for details on activities conducted and decisions made by each working group).

6. On the draft road map, the meeting made some revision and submitted the revision to the 3<sup>rd</sup> meeting of the Interim Intergovernmental Steering Group as an addendum<sup>1</sup> to the “Draft road map for the implementation of the substantive provisions in the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia”.
7. On the draft terms of reference and rules of procedure for the Council and the Standing Committee, Mr. Castellani introduced the draft. The meeting took note of the draft.
8. Regarding the draft template for individual action plan, the secretariat introduced its structure and substance. The meeting took note of the draft.
9. On the draft capacity building strategy, Mr. Khan introduced its structure and substance. The meeting took note of the draft.
10. Regarding discussion on mutual recognition mechanism, the following discussions and interventions were made:
  - The secretariat informed the meeting of previous discussions on mutual recognition mechanism made within the TWG.
  - Mr. Kiryushkin, an UNNExT expert, introduced his contribution paper entitled “Methodology of formation of transboundary trust environment and the requirements for its creation, functioning and development.”
  - Mr. Castellani elaborated on mutual recognition and the need to create trust among concerned parties, referring also to the recent experience of the European Union. He elaborated on possible ways to assess the reliability of the methods and technologies used for the exchange of electronic communications, mentioning three options: 1) leaving the choice entirely to the concerned parties; 2) providing for a pre-approved list of methods and technologies; and 3) assessing methods and technologies only in case the need should arise, i.e. the legal status of the electronic communication is challenged. He also highlighted the possibility of multiple options to arrange mutual recognition,

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<sup>1</sup> See: <http://www.unescap.org/sites/default/files/Addendum-1-Draft-Road-Map-Framework-Agreement-Facilitation-Cross-Border-Paperless-Trade.pdf>

indicating that under the principle of proportionality different solutions could suit different types of transactions, for instance in light of their B2B or G2G nature.

- Dr. Xue emphasized importance of taking into account developments made in UNCITRAL and UN/CEFACT in preparing legal solutions for the Framework Agreement, mentioning the case of e-commerce in China well as highlighting importance of cross-border legal harmonization.
  - Russian delegation highlighted that the contribution made by Mr. Kiryushkin should be understood as a contribution of an individual expert, not as the position of Russian delegation.
  - Mr. Ha shared findings of his study on mutual recognition of digital certificates between certificate authorities of China and Republic of Korea, noting the importance of policy harmonization between countries. He also mentioned the importance of audit mechanism in mutual recognition, expressing his willingness to further contribute to work on this matter.
  - Mr. Cha highlighted the need for taking into account the challenges of developing countries in participating in cross-border data exchange, in order to make the Framework Agreement inclusive.
  - Ms. Kanokporn informed the meeting that the ASEAN Single Window pilot project requires digital signature for data exchange.
11. On another matter, Mr. Sugamata requested the LWG to review and provide feedback to the international standards implementation framework.
12. 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. Mr. Shafiquzzaman reported that the LWG elected himself and Mr. Ramezan Ali Sadegh Zadeh of the Islamic Republic of Iran as the new Co-Chair and Vice-Chair respectively. He also reported that the LWG had constructive review and discussion on draft legal gap checklist and draft list of legal instruments. The secretariat informed the meeting

that the TWG did not elect any co-chair or vice-chairs due to lack of volunteers. The secretariat informed the meeting that the TWG reviewed the draft technical gap checklist, draft international standards implementation framework and draft cross-border paperless trade reference map. He also informed that the meeting that the TWG decided to have its virtual meeting once every two months.

13. 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 2018. The interim chair agreed to report progress made by the 4<sup>th</sup> meeting of the Legal and Technical Working Groups to the 3<sup>rd</sup> meeting of the Interim Intergovernmental Steering Group with the support of the secretariat.
14. On any other matters, a participant from the Republic of Korea made a presentation on Official Development Assistance (ODA) programme of the Korea Customs Service. The secretariat, appreciating the information provided by the participant from the Republic of Korea, encouraged other countries to share information on their ODA programmes related to trade facilitation, and possibly linking them to support implementation of the Framework Agreement.
15. The meeting was closed with remarks by Mr. Shafiquzzaman, the interim chair of the 4<sup>th</sup> 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**

1. Opening of the Meeting
  - (a) Opening remarks
  - (b) Election of interim chair
  - (c) Adoption of the agenda
  - (d) Update on progress made by the Legal and Technical Working Group in preparing a draft road map since the third meeting in March 2016
2. Working group breakout session
3. Review of progress made by each Working Group in preparing a draft road map
4. Other matters
  - (a) Discussion on future work plan, including reporting to the Steering Group
  - (b) Any other business
5. Closing.

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

- 1) The Legal Working Group (LWG) elected Mr. Shafiquzzaman of Bangladesh and Mr. Ramezan Ali Sadegh Zadeh of the Islamic Republic of Iran as the new Co-Chair and Vice-Chair respectively.
- 2) Mr. Bryan Tan introduced the Legal Gap Checklist, which is intended to support Article 12 of the Framework Agreement. The Legal Working Group reviewed the document and noted that a very comprehensive draft checklist had been developed. At the same time, the meeting noted the need for further work on the draft checklist, including 1) tailoring the document so that it could better support development of individual action plans; 2) distinguishing and prioritizing the core legal issues that are directly related to provisions of the Framework Agreement and those which extend beyond the provisions of the Framework Agreement yet are related at cross-border paperless trade; 3) distinguishing between the legal issues that are related to G2G, B2G, B2B and other issues; and 4) ensuring that the scope of the legal checklist is focused on issues related to cross-border paperless trade as pertaining to the government activities.
- 3) Dr. Hong Xue introduced the document. International Legal Frameworks and Best Practices Relevant to Cross-Border Paperless Trade, which is intended to support implementation of Article 10 of the Framework Agreement. The meeting found it to be a comprehensive list of relevant international legal instruments. Furthermore, the meeting decided to further develop the draft list and update it as a reference material for future discussion and gap analysis.
- 4) The Legal Working Group (LWG) decided to continue its work to develop supporting documents for the Framework Agreement, in accordance with the decision of the Steering Group.

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

- 1) The Technical Working Group (TWG) did not elect any co-chair or vice-chairs as there were no volunteers.
- 2) On the draft technical gap checklist, Ms. Wong introduced the draft and led the working group discussion. The TWG noted the need to consult and coordinate with the LWG on certain legal issues covered in the checklist and requested Ms. Wong to coordinate with the main contributor of the legal gap checklist.
- 3) Regarding the draft international standards implementation framework, Mr. Sugamata introduced the draft and led the working group discussion. The TWG noted potential value of harmonizing reference to relevant international standards in the technical gap checklist and the cross-border paperless trade reference map, in accordance with the listings and descriptions provided in the international standards implementation framework.
- 4) On the cross-border paperless trade reference map, Mr. Ha introduced the draft and led the working group discussion. The TWG recognized the value of further linking it to the development of an individual action plan, in particular for parties to decide on which pilot projects they can initiate or engage in.
- 5) For future work plan, the TWG decided to continue its tasks through virtual interaction using group mail and virtual meeting once every two months, subject to decision of the Steering Group on its operation. The secretariat informed the meeting that virtual meetings would be organized on Wednesday of last week of the meeting month at 13:00 Bangkok time, with advance notice from the secretariat.

## ANNEX 4. FINAL LIST OF PARTICIPANTS

ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

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

21-22 March 2017  
Bangkok, Thailand

#### LIST OF PARTICIPANTS

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