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STUDY REPORT
ON
REGIONAL ARRANGEMENTS FOR FACILITATION OF CROSS-BORDER
PAPERLESS TRADE
IN ASIA AND THE PACIFIC

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Index

Chapter	Subject	Page
1	Need for regional arrangements on Paperless Trade in the Asia Pacific	3
2	Review of existing arrangements for the facilitation of paperless trade	13
3	Proposed contents and features of regional arrangement	86
4	Conclusion and Way Forward	100
Annex	Draft Regional Agreement	102
	References	121

CHAPTER 1

NEED FOR REGIONAL ARRANGEMENTS ON PAPERLESS TRADE IN THE ASIA PACIFIC

Introduction:

This Report is the outcome of a study undertaken at the instance of UNESCAP on "Regional Arrangements for facilitation of cross-border paperless trade in Asia and the Pacific". The first chapter seeks to examine the necessity for such a regional arrangement in the context of Asia and the Pacific. In the second chapter, a review is undertaken of the existing practices in regard to paperless trade in different countries/ regions and discussions in the relevant multilateral bodies. The third chapter proposes a detailed regional arrangement outlining its contents and features. The fourth chapter proposes an institutional mechanism for proper maintenance and expansion of such a regional arrangement. The annex provides a draft legal text to operationalize the proposed regional arrangement.

Scope and Methodology:

This Report deals with facilitation of cross-border trade, i.e. trade taking place across the border of one country with another or across a customs territory. It is not concerned with trading activities taking place within a country. It also deals with transit trade where there is movement of goods across a country as in the case of landlocked countries.

Cross-border trade not only entails exchange of documents and information across the border, but also within the country. For example, prior to clearance of goods at the border, such exchange of information and

documents takes place between the importer and the customs authorities as well as with other regulating authorities. Exchange of information and documents also takes place between customs and the port/ airport authorities. Facilitation of cross-border trade has to necessarily deal with such exchange of information and documents even though it takes place within the exporting and importing country while dealing with similar exchange taking place across the border.

The term 'paperless trade' does not appear to have a standard definition. The Global Facilitation Partnership for Transportation and Trade uses the following definition for the term 'paperless trade': -

"A trade system where trade information is exchanged through dematerialized, structured trade documents, based on open and agreed standards." – www.gfptt.org

For the purpose of this paper the same is adopted as a workable definition.

Since paperless trade envisages exchange of data and trade documents electronically, sometimes terms like 'e-trade' or 'electronic trade' are sought to be used synonymously with the term 'paperless trade'. However, electronic trading or e-trading is more aptly applied to a method of trading, such as trading of securities, stocks, bonds, foreign exchanges etc. on an electronic trading platform. On the other hand, the term 'paperless trade' includes trade in goods which are physically traded but without exchange of paper documents. For the purpose of this report, we use the term 'paperless trade' throughout instead of the restrictive term 'e-trade'.

This Report draws extensively upon previous work/ study reports prepared under the aegis of UNESCAP, UNECE, WCO, WTO and other international organizations as well as different country reports. The sources have been referred to in the text where ever possible and also listed in the end. We

have also drawn upon our interactions with trade, as well as government officials dealing with customs, trade issues and ports. We have also drawn upon our own field experience.

Need for Facilitating Paperless Trade and Transit:

Before examining the need for a Regional Arrangement, it is worthwhile to briefly look at the need for paperless trade *per se*. The UNECE Document titled "A Roadmap towards Paperless Trade" (Document No. Trade/RCR/371) points out that billions of paper documents are used in international trade by traders and administrations. This is happening despite phenomenal advances in Information and Communication Technology (ICT). The arguments supporting changeover from paper documents to paperless trade are now well known. These are briefly summarized below: -

- (i) The cost involved in international trade can be reduced significantly saving billions of dollars.
- (ii) There will be increased revenue for both private sector and the Governments.
- (iii) Security, transparency and efficiency in supply chains would increase.
- (iv) Electronic information will be easier to process and more reliable.
- (v) Delays in border clearance would be reduced.
- (vi) Changeover to paperless trade will be invariably accompanied by reengineering of existing complicated procedures resulting in simplification.
- (vii) Reduction in cost and simplification of procedure will help small and medium enterprises to become more competitive as savings from paperless trade are found to be highest for smaller shipments and perishable goods.

- (viii) Electronic information is more amenable to automatic risk analysis which will help in preventing fraud and non-compliance giving rise to more revenue.
- (ix) It will help in modernizing administrations and result in better utilization of available manpower.
- (x) Trade will benefit from reduction in repeated data entry, reduction in errors and delays.
- (xi) It will allow private enterprises to develop and use automatic tracking systems to enable secure and timely delivery of goods.
- (xii) Paperless trade can significantly cut down bureaucratic delays and accompanied corruption.
- (xiii) Landlocked countries would specially benefit by paperless trade as electronic information can be received and processed in advance before arrival of the goods at the border enabling faster clearance.
- (xiv) Very often Administrations are forced to make use of incomplete and unauthenticated data while imposing WTO mandated trade remedy measures such as antidumping duties etc. In a paperless trading environment there will be complete and transparent capture of reliable trade data enabling Administrations to take informed decisions.

The usual arguments against changeover from paper documents to paperless trade relate to initial costs involved, reluctance of traders to incur additional costs unless they see the benefit, resource constraints in respect of developing countries as well as small traders. These can, however, be overcome by: -

- (i) demonstrating the distinct advantages of a paperless system to all stake-holders;
- (ii) the national Governments taking the initiative and bearing the initial costs particularly for the small traders; and

- (iii) providing international financial and technical assistance to developing countries lacking in resources.

It is also important to plan and manage a smooth and phased transition to a new system so that it gains wider acceptance.

Gaps in furthering Cross-border Paperless Trade

While most countries recognize the advantages ICT presents and the benefits a paperless trading environment offers in improving competitiveness of exporters, several countries in the Asia-Pacific region face significant challenges in moving towards paperless trading.

The reasons are manifold: -

- (a) Inadequate national effort to apply ICT in matters relating customs and port clearance.
- (b) Computerization by different government departments dealing with different aspects of international trade in an uncoordinated manner and thereby making implementation of a single window system difficult.
- (c) Computerization at the national level without applying global standards diminishing chances of inter-operability and cross-border exchange.
- (d) Lack of financial resources and qualified technical personnel.
- (e) Lack of political will and lack of leadership within the administration to opt for and manage a change-over from the existing system to a paperless trading environment.
- (f) Lack of public – private partnership in evolving a better trading environment using ICT.
- (g) Apart from the fear of change, continuance of a non-transparent manual system may be at times attributable to vested interests that benefits from an opaque system.

Not only issues relating to resources and technology gap are relevant for furthering paperless trade across borders, a legal gap analysis is also called for to identify legal issues that need to be addressed. Some of these issues are highlighted below: -

- (i) An overarching national legislation is required to validate electronic documents, messages, and transactions and make the same acceptable in lieu of paper documents.
- (ii) In the alternative, changes are required to be made in various individual laws relating to customs, civil, criminal matters and any other law relating to enforcement, laws relating to evidence and laws of regulatory nature.
- (iii) Laws are required to be made for data protection, data privacy, data integrity, data sharing, and data retention/ archiving along with period of retention.
- (iv) Laws are also required for electronic/ digital signatures, their authentication and acceptance of certification authorities across the border.
- (v) Legal provisions must also provide for responsibility for wrong data entry and consequent liabilities.

These legal issues merit equal attention for creating an enabling

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