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Q1: Respondent details

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Q2: Country or Customs territory	- INTERNATIONAL ORGANIZATION
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Q4: Title of case story

Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific: A New Tool for Enhancing Digital Connectivity

Q5: Case story focus

Trade Facilitation.

Q6: Case story abstract

The Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (FA-PT), developed by member states of United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), is a unique and dedicated regional intergovernmental platform dedicated to enabling the exchange and legal recognition of electronic trade data and documents across borders. It is the latest in a series of regional UNESCAP agreements developed over several decades and aiming at reducing trade costs and enhancing regional connectivity. The FA-PT was finalized as a UN treaty in May 2016 after 4 years of stakeholder consultations and intergovernmental negotiations. It is expected to be a useful tool to support the better and deeper better implementation of the WTO Agreement on Trade Facilitation (TFA), building on the fast growing bilateral and regional single window and cross-border paperless trade initiatives. The FA-PT provides a multi-layered institutional arrangement for Parties to facilitate mutual recognition of electronic trade-related data and documents and promote interoperability between paperless trade systems, including national single windows. It is estimated that implementation of cross-border paperless trade in Asia and the Pacific could reduce export costs by 15 to 30% on average, increasing export potential of the region by \$257 billion when fully implemented.

Q7: Who provided funding?

Other (please specify)
 Member States of UNESCAP, including contribution in kind. Regional capacity building activities on paperless trade that led to the development of the FA-PT were funded through a variety of sources, including the United Nations Development Account and the Republic of Korea.

Q8: Project/Programme type

Regional

Q9: Your text case story**A. Background**

The potential benefits from conducting trade transactions on the basis of electronic rather than paper-based data and documentation have long been recognized by a number of Asian and Pacific countries, who began implementing paperless trade systems from the late 1990s and early 2000s. The economic gains from early implementation of such systems have been significant, as in the cases of the Republic of Korea and Singapore.

To date, most of the paperless trade systems in the region have focused on facilitating information exchange between stakeholders domestically. However, facilitating international trade inherently requires trade information to flow also across borders along international supply chains, not only among domestic stakeholders. As a result, the flow of electronic trade information generated domestically encounters both technical and legal barriers beyond the border, requiring traders to maintain conventional paper-based trade practices, thus reducing the overall benefits and return on investment from paperless trade systems.

The need to find effective ways to address these technical and legal barriers to cross-border paperless trade has been raised regularly and increasingly by both public and private stakeholders in the region, in particular since the High-level Symposium on Building Regional Capacity for Paperless Trade, jointly organized by ESCAP and the Economic Commission for Europe (UNECE) on 24-25 March 2009. ESCAP member States ultimately decided to adopt a formal resolution on the matter, entitled Enabling paperless trade and the cross-border recognition of electronic data and documents for inclusive and sustainable intraregional trade facilitation on 23 May 2012 (ESCAP resolution 68/3).

B. Development Process

Resolution 68/3 invited member States to work towards the development of regional arrangements on the facilitation of cross-border paperless trade. It also requested the ESCAP secretariat to support and facilitate the development of such regional arrangements as well as to further strengthen its support for capacity-building activities related to trade facilitation and paperless trade.

Following the conduct of a regional study on feasibility and potential options, an initial draft text of a regional arrangement on the facilitation of cross-border paperless trade was developed in 2013 through expert group meetings as well as subregional and regional Member state consultations. The third session of the ESCAP Committee on Trade and Investment (CTI), held on 20-22 November 2013, noted the progress made and agreed to move forward with formal negotiation of the arrangement. An Ad Hoc Intergovernmental Meeting on a Regional Arrangement for the Facilitation of Cross-border Paperless Trade, held on 22-24 April 2014, could not reach a consensus on finalizing the draft text and decided to establish the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation, which was endorsed by the Commission at its seventieth session in August 2014 in the form of another Commission resolution 70/6.

The Steering Group, at its first meeting on 1-3 April 2015, decided to create legal and technical working groups to expedite its work, in particular the finalization of the text of the regional arrangement. More than 50 officials and experts from more than 23 ESCAP members were nominated and participated in the working groups, which met both physically and virtually. This enabled the Steering Group to finalize the text of the regional arrangement as the Framework Agreement on the Facilitation of Cross-border Paperless Trade in Asia and the Pacific (FA-PT) on 24 March 2016.

The ESCAP Commission, at its 72nd session on 19 May 2016, adopted the FA-PT as the Commission resolution 72/4. The FA-PT opened for signature and ratification or accession at the UN Headquarters in New York on 1 October 2016.

C. Overview of the Framework Agreement

The FA is a UN treaty open to all interested 53 ESCAP member states. Its objective is to “promote cross-border paperless trade by enabling the exchange and mutual recognition of trade-related data and documents in electronic form and facilitating interoperability among national and subregional single windows and/or other paperless trade systems, for the purpose of making international trade transactions more efficient and transparent while improving regulatory compliance (Article 1).” As such, the treaty provides Parties an enabling and structured intergovernmental framework to work together on addressing the complex issues associated with cross-border paperless trade.

The FA is characterized by the following key features:

1. A set of key principles to promote connectivity and trade facilitation, including functional equivalence, promotion of interoperability, improved trade facilitation and regulatory compliance, and cooperation between public and private sectors
2. A multi-layered institutional arrangement as an operating platform: a Council at high level as a decision-making body; a Standing Committee at senior official level as an operative body; and Working Groups, at expert level, as substantive supportive bodies.
3. A commitment to enabling mutual recognition of trade-related data and documents: Mutual recognition would be provided on the basis of a substantially equivalent level of reliability, to be mutually agreed upon by the Parties through the Institutional Arrangement of the FA. Implementation of such mutual recognition may involve bilateral and regional arrangements at the operational level.
4. A comprehensive action plan to address legal and technical issues in cross-border paperless trade, to be developed and implemented by the Parties after entry into force of the agreement. It will include development of technical and legal measures, detailed actions for designing pilot projects and subsequent actual projects, capacity building support and information and experience sharing activities among members, etc. The collective implementation of the action plan is expected to result in the emergence of practical standardized solutions and protocols for cross-border paperless trade.

The FA-PT contains a preamble and 25 articles. The preamble provides the background and rationale for this arrangement. Articles 1 to 16 are substantive clauses, covering objective, scope, definitions, general principles and other action-oriented measures as follows:

- Article 1: Objective
- Article 2: Scope
- Article 3: Definitions
- Article 4: Interpretation
- Article 5: General principles
- Article 6: National Policy Framework, Enabling Domestic Legal Environment and Paperless Trade Committee
- Article 7: Facilitation of Cross-border Paperless Trade and Development of national Single Window(s)
- Article 8: Cross-border Mutual Recognition of Trade-related Data and Documents in Electronic Form
- Article 9: International Standards for Exchange of Trade-related Data and Documents in Electronic Form
- Article 10: Relation with Other Legal Instruments Enabling Cross-Border Paperless Trade
- Article 11: Institutional Arrangements
- Article 12: Action Plan
- Article 13: Pilot Projects and Sharing of Lessons Learned
- Article 14: Capacity Building
- Article 15: Implementation of the present Framework Agreement
- Article 16: Other agreements in force
- Articles 17 to 25 are final clauses, specifying standard provisions typical of a UN treaty as follows:
- Article 17: Dispute Resolution
- Article 18: Procedure for Signing and Becoming a Party
- Article 19: Entry into Force
- Article 20: Procedures for Amending the Framework Agreement
- Article 21: Reservations
- Article 22: Withdrawal
- Article 23: Suspension of validity
- Article 24: Limits to the application
- Article 25: Depository

D. Benefits of the Framework Agreement

Implementation of cross-border paperless trade in Asia and the Pacific is expected to reduce export costs by 15 to 30%

on average, increasing the annual export potential of the region by \$257 billion when fully implemented.

The expected benefits for ESCAP member states who become parties to the FA-PT may include:

1. Accelerated progress towards a paperless trade environment at the national level on the basis of the political will demonstrated during the accession process to the FA-PT.
2. Opportunity to integrate emerging cross-border paperless trade considerations and best practices early in the development of national paperless trade systems to ensure they are interoperable and enabled for (future) cross-border data exchange, in particular through structured and regular sharing of lessons.
3. Reduction in overall investment costs and maximization of return from investments in paperless trade systems, through concurrent development of national paperless trade systems and environment for cross-border trade data exchange.
4. Ready access to potential counterpart countries interested to negotiate and achieve cross-border data exchange, avoiding or reducing needs for engaging in numerous and/or potentially incompatible bilateral initiatives.
5. Direct participation in the development of pragmatic solutions for the cross-border exchange of trade documents, with opportunity for countries with relevant experience and existing practices to ensure that new regional systems and solutions will be harmonized and interoperable with what they have already achieved on a bilateral and/or sub-regional basis. For less advanced parties, such direct participation may be expected to increase national capacity and the possibility of becoming early adopter/implementer.
6. Compliance with commitments the party may have made through in its bilateral and plurilateral RTAs to collaborate on exchanging electronic of data and documents (typically features in "Paperless Trading" or "Paperless Trade Administration" Articles in RTAs, or related provisions).
7. Ultimately: (1) reduced trade transaction time and costs, potentially boosting trade competitiveness; (2) improved levels of compliance by traders to regulatory requirements in international trade; and (3) more direct engagement of small and medium-size enterprise (SMEs) in international trade and cross-border e-commerce.

- Support to implementing the WTO Agreement on Trade Facilitation

The FA-PT, with its specific focus on applying modern information and communication technologies to trade facilitation measures, is complementary to the WTO Agreement on Trade Facilitation (TFA). Implementing the FA-PT supports ESCAP member States in easily meeting the requirements of many provisions of the WTO TFA, inter alia, Formalities connected with importation and exportation and transit (Article 10), Release and clearance of goods (Art. 7), Border agency cooperation (Art. 8).

The WTO TFA focuses on conventional trade facilitation measures such as publication and availability of information, advance ruling, fees and charges, release and clearance of goods. The FA, on the other hand, is wholly dedicated to enabling paperless trade, in particular cross-border. Complementarity between the WTO TFA and the FA-PT is possibly best illustrated by the Single Window provisions in each of the Agreements: The Single Window provision of the WTO TFA specifies that "Members shall, to the extent possible and practical, use information technology to support the single window"; The FA-PT provision (Article 7) in turn specifies that "The Parties are encouraged to develop single-window systems and use them for cross-border paperless trade."

- Context for Least Developed Countries (LDCs) and Land-locked Developing Countries (LLDCs)

LDCs usually lack human, institutional and financial resources for paperless trade. The FA features strong capacity building support provisions, which can enhance access to technical assistance opportunities in cross-border paperless trade. With its mechanism on sharing of lessons, it provides LDCs ready access to learning from and bench-marking other first movers in the region. With its pilot project mechanism, it provides an opportunity to engage in practical experiences in paperless trade implementation, instead of going through redundant trial and error processes.

LLDCs have a geographical disadvantage in conducting trade transactions. The FA could facilitate transit processes, reducing time and costs for LLDCs. For example, if both an LLDC and its neighboring transit country are parties to the FA, transit related information between them could be exchanged electronically. LDCs and LLDCs in the region are in early stages of implementing paperless trade. Many of them already have in place policies for advancing automation and paperless trade. Therefore, becoming a party to the FA will only help implement those related policies and provide

an opportunity to make their national paperless trade systems interoperable in cross-border paperless trade, accelerating their international readiness and improving their trade environment.

More details on the Framework Agreement, including certified true copy of the treaty, can be found at:
<http://www.unescap.org/resources/framework-agreement-facilitation-cross-border-paperless-trade-asia-and-pacific>

Q10: Lessons learnt

In successfully developing any trade facilitation measures, including an intergovernmental treaty, it is important to engage all the relevant stakeholders, including government officials, private sectors and relevant international and regional organizations. For the FA, government officials and experts nominated by more than 25 UNESCAP member states actively worked together to develop a treaty that can work best in the regional context. While government officials effectively represented their national requirements and concerns during negotiation, regional experts provided their expertise and experiences in implementing paperless trade systems. In addition, participation of representatives from relevant international and regional organizations helped to ensure avoidance of duplication and complementarity with other instruments. While the treaty is in place, it is important for as many as possible UNESCAP member states to become parties to the FA and reap benefits from it through actual implementation.
