Role of advanced technologies in overcoming COVID-19 disruptions in international trade: the contribution of the UNCITRAL Model Law on Electronic Transferable Records

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Promoting digital trade

• High level goals:
  – Make information available everywhere, anytime
  – Enable data reuse and analysis
• Success in digital trade is the result of policy, technical and legal choices
• Need to have certainty and predictability on legal status
• Certain business fields are particularly risk-averse
The issue

- Transferable documents and instruments / documents of title
  - Holder may receive money or goods
  - Examples: bills of lading, checks, bills of exchange, promissory notes, warehouse receipts, possibly letters of credit
- Can be used as collateral for financing
- Contain significant information about the commercial transaction
- How to legally enable their use in electronic form?
Adopted in July 2017, the Model Law on Electronic Transferable Records (MLETR) is the most recent UNCITRAL text in the field of digital trade.
MLETR: the features

- Singularity: prevent double spending;
- Control: ensure that the person disposing of the ETR (e.g. requesting performance) is the one supposed to be able to do so;
- Integrity: record all events;
- Functional equivalence: apply same legal regime to electronic and paper-based documents;
- Technology neutral;
- Enabling, not prescriptive law.
MLETR and business process re-engineering

• Dematerialisation of commercial documents is a necessity
  – Bank Payment Obligations (BPO)
• This also provides an occasion to reengineer business processes:
  – The MLETR enables use of blockchain-based negotiable documents and instruments for all purposes
    • E.g., confirmation of legal validity of blockchain-based bills of lading as a result of MLETR enactment may reduce banks’ capital requirements for financing under Basel III
  – The commercial transaction is one: do we really need to create several commercial documents?
MLETR and paperless trade implementation

• A single ETR containing all trade-related data:
  – replaces all commercial and compliance documents
    • information is selectively shared with business partners
  – enables integration of all data elements from various sources in a supply chain (“data pipeline”)
  – ensures best data quality:
    • up-to-date, complete, accurate and authentic
• ETRs lie at the core of national trade platforms
  – Single ecosystem for logistics, finance and customs single window
MLETR and COVID-19 related trade disruptions

• Risk reduction:
  – paperless operations minimise risks and delays arising from personal interaction

• Faster response:
  – full control over logistics and customs supply chain allow to prioritise delivery of critical shipments

• Robust economic recovery:
  – improved management of trade financing allows easier, faster and more affordable access to credit, especially by SMEs.
How to enact the MLETR?

- Some 100 States have already enacted UNCITRAL texts on e-commerce
- MLETR is in force in Bahrain
- Several other countries considering
  - Singapore has announced MLETR adoption in the framework of Trade Trust implementation
- The text and explanatory note to the MLETR are available on the UNCITRAL website
- The UNCITRAL secretariat is glad to assist countries in considering enactment of the MLETR
UN/CEFACT project on MLETR implementation

• Ongoing UN/CEFACT project on Transfer of MLETR-compliant titles
• Aims to provide guidance on MLETR implementation, namely:
  – Which key issues should be considered while creating, administering and using technologies for electronic transferable records.
  – How DLT / blockchain could be used to facilitate title transfers of MLETR-compliant title records;
  – How to use existing UN/CEFACT deliverables;