



**Economic and Social
Council**

Distr.
RESTRICTED

TRADE/CEFACT/GE.2/1997/1
27 March 1997

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

COMMITTEE ON THE DEVELOPMENT OF TRADE

Working Party on Facilitation of
International Trade Procedures
Meeting of Experts on Procedures
and Documentation

(Fifty-fifth session, 18-19 March 1997)

**REPORT OF THE FIFTY-FIFTH SESSION OF THE MEETING
OF EXPERTS ON PROCEDURES AND DOCUMENTATION**

1. The Meeting of Experts (GE.2) held its fifty-fifth session in Geneva on 18-19 March 1997 under the chairmanship of Mr. E. Goffin (Belgium) and the vice-chairmanship of Ms. C. Wallen-Rahlen (Sweden).

2. Participants in the meeting included representatives from:

The following countries:

Austria, Australia, Belgium, Bulgaria, Brazil, Canada, Czech Republic, Denmark, Finland, France, Gabon, Germany, Hungary, Iceland, Islamic Republic of Iran, Ireland, Israel, Japan, Korea, Luxembourg, the Netherlands, Poland, Romania, Russian Federation, Senegal, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland and the United States of America.

The European Union (EU)

The following inter-governmental organizations:

World Customs Organization (WCO) and the World Trade Organization (WTO)

The following UN bodies:

United Nations Commission on International Trade Law (UNCITRAL), Conference on Trade and Development (UNCTAD), Economic and Social Commission for Asia and the Pacific (ESCAP), and the Economic and Social Commission for Western Asia (ESCWA).

And the following non-governmental organizations:

European Electronic Messaging Association (EEMA), International Air Transport Association (IATA), International Article Numbering Association (EAN), International Association of Ports and Harbours (IAPH), International Chamber of Commerce (ICC), International Chamber of Shipping (ICS), International Organization for Standardization (ISO), Society for Worldwide Interbank Transfer (S.W.I.F.T.) and the United Towns Agency for North-South Cooperation.

3. Observers to the meeting, present at the invitation of the secretariat, included representatives from: The European Board for EDI/EC Standardization, EBES, the International Federation of Inspection Agencies (IFIA) and the North American Trade Procedures Organization (NATPRO).

Item 1 - Adoption of the agenda

4. Provisional agenda (TRADE/WP.4/GE.2/106/Rev.1) was adopted with the understanding that item 7 "Legal/commercial aspects of trade facilitation" had been deferred to a joint session of GE.1/GE.2, item 2 "Migration to CEFACT" should be discussed at the end of the agenda and document TRADE/WP.4/CRP.131, Report by CIT on the use of the Multimodal Dangerous Goods Form, should be discussed under separate agenda item. The Report of the joint session of GE.1/GE.2 on 21 March 1997 is appended to the Reports of the fifty-fifth sessions of GE.1 and GE.2.

Item 2 - Analysis of the International Trade Transaction (ITT)

Documents: - Report of the Steering group on International Trade Transaction (ITT) Modelling (TRADE/WP.4/R.1271)
- Concordance between commercial documents and UN/EDIFACT messages (TRADE/WP.4/CRP.127)

5. The discussion of the Report (TRADE/WP.4/R.1271) was introduced by Mr. D. Dima (Romania), Convenor of the Steering group on International Trade Transaction. He mentioned that a meeting of the Steering Group took place on 4-8 November 1996 to discuss the development of ITT Models at different levels, the use of modelling techniques and to explore the possibility to arrange a training course on the GRAPES method. The meeting of the Steering Group developed the draft Mandate of the future Permanent CEFACT Working Group on the International Trade Transaction (the ITT Group)(Annex I) and its draft Work Programme (Annex II). Annex III of the document contains the draft Terms of Reference of the Group to be considered at the later stage of the establishment of the Group. He invited a representative of the delegation of the United Kingdom to explain Annexes I and II of the document.

6. In his presentation, the representative of the delegation of the United Kingdom, Mr. R. Battersby, reminded the long history of the ITT analysis in the framework of WP.4. Three-four years ago this activity received a new impetus with the development of the electronic methods. He stressed that optimum benefits from the global free trading of the year 2020 would only be achieved when the international trade standardization process moves away from transaction based controls to become based on trade audit principles linked to risk assessment with the progressive use of information and communication technologies.

7. He added that the purpose of the ITT Group was to provide a framework for future CEFACT work covering the facilitation of international trade procedures as well as a tool for the education and training of users and, potentially, other interested parties. The Group's strategic objective is to make both public and private sector international trade requirements become, to the optimum extent possible, analogous to, and as simple as, their domestic equivalents.

8. The representative from U.K. explained the elements of a draft Mandate: Scope, Key deliverables, Geographical Focus, Functional expertise for membership, Delegated responsibilities requested and Statement of resource requirements.

9. The Convenor of the Steering Group, Mr. Dima, concluded the presentation and indicated the importance of the Diagram shown in the end of Annex III. He mentioned that ITT is a part of global transactions and cannot be considered independently from the whole process of the world trade. He also reminded some outstanding issues to be completed in the forthcoming months: the development of the transport stage of the ITT Model, the introduction of the ITT narrative on the Web page and the development of the international trade documents list. The next meeting of the Steering Group will take place on 2-4 July 1997 at the Palais des Nations, Geneva.

10. The delegation of Germany expressed the view that there was a significant difference between the proposed ITT group and the existing one. That while the former was technical in nature, the latter had a wider facilitation remit.

11. The representative of EBES pointed out that the ITT model already in existence should be extended to incorporate data flows more specifically related to consumers. With regard to the scope of the mandate, he stressed the need for models covering other sectors, including accountancy, legal system, welfare, etc. The working group should explore the possibility of widening the scope of the mandate to incorporate such sectors.

12. The representative of WCO supported the establishment of the CEFACT working group on ITT. With regard to the elimination of procedures referred to in the Overall Purpose of the Working group, he stated that, from the Customs perspective, this might be unrealistic due to social and environmental reasons - cross-border interventions will persist, hence the thrust of the work should focus on reducing the level of hinderance caused by the interventions. With regard to the group's terms of reference, discussions on a trade facilitation convention were considered important and should be taken by CEFACT as a whole and not limited to the ITT group. Numerous conventions already exist covering trade facilitation, e.g. IATA, IMO, ECE, and the KYOTO and ISTANBUL conventions. There was also a need to consider its interface with existing conventions. The WCO itself was emphasizing the KYOTO Convention as the principal convention on trade facilitation in customs matters.

13. The representative from NATPRO expressed support for the project and recognition of its importance. He announced that they had already begun work on an ITT model, but also stressed the regional character of the work which would allow it to work with CEFACT.

14. The Chairman of the CEFACT Steering Group (CSG), Mr. R. Walker (the United Kingdom) identified several questions that required clarification: 1) how did the existing work shed light on the proposals for new recommendations; 2) with

reference to the diagram contained on page 15 of the Report, it was unclear as to how the steps between the process and semantic levels were to be defined and reached; 3) the role of the ITT working group, although focused on modelling, should perhaps be expanded owing to linkages with other activities and sectors. This should be explored from a generic level, and in full recognition of the pivotal focus of CEFACT as found in trade facilitation. In this view, the ITT modelling group should be part of a wider group incorporating the above factors, reflecting the interest that exists for business process and value chain analysis.

15. The delegation from the United States acknowledged the importance of the ITT initiative and agreed on the concept of the working group as an important part of CEFACT's activities but stated that because of the importance of this modelling effort and its implications on future UN/EDIFACT work to be accomplished under the CEFACT organization, the establishment of the working group was premature at this time. Document TRADE/WP.4/R.1271 should be referred to the Steering Group of CEFACT for broader consideration to take into account mandates of other CEFACT groups.

16. The delegation from Iran expressed its support for the working group on ITT initiative and stressed the need to involve many groups while avoiding duplication.

17. The representative of ICS expressed its support for the initiative, stating that CEFACT is an essential forum for trade facilitation. The ITT group is very useful for providing analysis of information flows of countries where outdated methods of documentation and transactions still exist.

18. The delegation from France drew the attention to document TRADE/WP.4/CRP.127, Report by the delegation of Romania on concordance between commercial documents and UN/EDIFACT messages and indicated that this document was extremely useful in the elimination of gaps between international trade documents and UN/EDIFACT messages. The delegation of Romania informed that a new version of that document was under preparation.

19. Having taken into account documents ECE/TRADE/R.650 and TRADE/WP.4/R.1281 on the one hand, and on the other hand the fact that delegations recognized the importance of the ITT Group activities, the Chairman undertook to summarize the discussion in a short paper and to submit the proposal to the CEFACT Steering Group. The Meeting approved this proposal.

Item 3 - Implementation of ECE/FAL Recommendations

(a) Recommendation No. 4 "National Trade Facilitation Organizations

Document: - List of National Trade Facilitation Committees and Focal Points
(TRADE/WP.4/R.898/Rev.8)

20. The Meeting noted document TRADE/WP.4/R.898/Rev.8, the list of existing committees and focal points, prepared by the secretariat. The delegations were asked to send to the secretariat the contact information on their national trade facilitation bodies, including E-mail addresses. The importance of this Recommendation was underlined, especially, in view of the establishment of CEFACT and potential participation of new delegations in its work. The attention was

drawn to the new information regarding World Wide Web pages included in the document.

21. The Chairman asked the secretariat to continue the maintenance of the list and submit its updated version to the next session of GE.2.

22. The secretariat also referred to the Trafix homepage that delegations include information about several national Trade Facilitation bodies. Furthermore, the secretariat requested that other delegations submit similar information (2-3 pages) and offered to assist them in hosting their respective homepages should they lack technical means to upload information on the World Wide Web.

(b) Recommendation No.10 "Ships' codes"

Document: - Revision of WP.4/Recommendation No.10 "Code for ship's names" (TRADE/WP.4/R.1274)

23. The Meeting noted that the secretariat had prepared a new revised version of Recommendation No.10 "Ships' codes" (document TRADE/WP.4/R.1274) in the official format with translation in three official languages.

(c) Recommendation No.11 "Documentary Aspects of the International Transport of Dangerous Goods"

Document: - Use of Multimodal Dangerous Goods Form (TRADE/WP.4/CRP.131)

24. The representative of CIT introduced document TRADE/WP.4/CRP.131 containing recommendations of his organization on the use of the Multimodal Dangerous Goods Form developed by WP.4 in accordance with Recommendation No.11. In particular, it concerns the railway consignments with transshipment in the maritime and air modes of transport. He added that further report on the results of this work would be available in 1998.

25. The Meeting noted this Report with satisfaction, as a good example of implementation of Recommendations developed in the WP.4 framework.

(d) Recommendation No.12 "Measures to facilitate transport documents procedures"

Document: - Implementation of ECE/FAL Recommendation No.12 (TRADE/WP.4/R.1218)

26. The Chairman explained that, for the time being, the Meeting had no written contributions on the subject, but the topic was extremely important in respect of the implementation of non-negotiable documentation in the area of maritime transport and of the development of aligned transport documentation for other modes of transport (for example, in railway and road modes of transport). He suggested to inform the CEFACT Plenary and Steering Group that it might be necessary to set up a special working Group on the subject. The Meeting agreed to this proposal.

(e) Recommendation No.16 "UN/LOCODE - Codes for ports and other locations"

Document: - Proposal by ICS for the creation of a CEFACT Working Group on UN/LOCODE (TRADE/WP.4/R.1275)
Remarks to document TRADE/WP.4/R.1275 by the CEFACT Consultant on UN/LOCODE (TRADE/WP.4/CRP.128)

27. The Chairman recalled that a great interest and support had been shown for the UN/LOCODE at the meeting of GE.2 in September 1996; the success of the code had been recognised and the ICS had proposed that an ad hoc Working Group be set up in the framework of the CEFACT to pursue this work with coherence and celerity.

28. The representative of ICS referred to the UN/LOCODE as a success story, attracting ever increasing interest among users. The recommendation No 16, on which the UN/LOCODE is based, gave raise to a great deal of comment from users, as apparent from the discussions at several ECE meetings; it appeared that some fundamental issues remained to be further discussed. The opportunity of the creation of CEFACT therefore should be seized to provide for organised work within the CEFACT structure.

29. After a presentation of document TRADE/WP.4/R.1275 by ICS, the Chairman invited comments from the Meeting of Experts. Support for the creation of a CEFACT Working Group was expressed by the delegation of the Netherlands, followed by Australia, Germany, the United Kingdom, the United States of America, the European Union and IATA.

30. In his statement of support, the IATA representative drew attention to the growing need among rail and other ground transport services to set up new coding systems; IATA had suggested that the UN/LOCODE should be considered for these purposes, rather than creating new and potentially competing coding systems. It was imperative, against this background, to ensure that all interested users be invited to take part in the work and that every effort be made to meet their requirements.

31. The Chairman concluded that the question of whether a working group should be ad hoc or permanent could be left for further consideration in the light of progress made, that modern communications techniques would facilitate consultation between working group members and that the outcome of the discussion should be reported to the CEFACT Steering Group as a matter of urgency.

32. The Chairman invited the CEFACT Consultant on UN/LOCODE to introduce document TRADE/WP.4/CRP.128. The presentation of the proposals contained in this document followed the one so far used in the context of ECE and ISO practices. This meant that separate segments set out the overall objective, the terms of reference within which the group should work, its composition, a long-term and a short-term work programme, provisions for meetings, secretariat function, etc. He underlined that the paper was intended as a basis for discussion and that comments would be welcome with a view to improvement.

33. If GE.2 (and the CEFACT Steering Group) agree, working papers will be prepared for the first session of the working group. In view of the urgent users' requirements, preparatory work could even start before a formal decision is taken. Any new documentation would take into account still valid material from the previous inter-sessional group and would also reflect the ICS proposals and any other relevant inputs.

34. A new feature that would merit particular consideration was the possibilities offered by using Internet (e-mail, WWW, etc.)

35. Finally, as a matter of information, the Consultant reported that the UN/LOCODE data base comprised 64380 records, of which some 22000 were published, that the 1997 version, in principle, was ready for distribution, subject to the receipt of one or two eagerly awaited contributions, that a change-over from ALPHA-4 to ACCESS software had created some transitional problems and that arrangements for making UN/LOCODE available over Internet were in an advanced stage of completion.

36. The representative of ICS, noting the urgency of getting work started, mentioned that the JRT meeting in Singapore in April would offer an opportunity for users to come together and share their views regarding matters related to UN/LOCODE. Provision would be made for an informal meeting to take place during the JRT meeting week.

37. The Chairman reminded that such a meeting might not be fully representative of the membership of the hitherto existing inter-sessional group which, he recalled, included members from France, Japan, Netherlands, Norway, United Kingdom and the United States of America. He felt that these delegations should be invited to confirm whether they would like to participate in a new group; he also invited delegations present to volunteer for membership. The delegates from Belgium, Germany, ICS and IATA expressed their wish to participate.

(f) Recommendation No.18 "Facilitation measures related to international trade procedures"

38. The secretariat informed that, in accordance with the decision taken at the 54th session of GE.2, a letter was sent to WTO in relation to the review by WP.4 of the implementation of the Uruguay Round Agreement on PSI procedure. WTO acknowledged the receipt of this letter and informed the ECE secretariat of the establishment of its Working Group on the subject. Further information on the developments in the framework of this group will be submitted to the ECE secretariat later.

39. The delegations of the United Kingdom and France underlined the importance of simplification of this procedure. The documentation involved in this procedure should be aligned in accordance with the UN/Layout Key. Trade operators are interested in reducing time limits (15-20 days) needed to carry out this procedure.

40. The Chairman concluded that the facilitation of this procedure as well as the general revision of Recommendation No.18 is a very important task to be done in accordance with the mandate of the newly created CEFACT Working Group on ITT.

(g) Recommendation No.21 "Codes for types of cargo, packages and packaging materials"

Documents: - Publication of Recommendation No.21 (ECE/TRADE/211)

41. In accordance with the decision taken by WP.4 at the session in September 1994, the secretariat informed the Meeting that amendment of Recommendation No.21 "Codes for types of cargo, packages and packaging materials" approved by the Working Party at the September 1996 session would be published in document ECE/TRADE/211.

Item 4 - Revision of the Kyoto Convention

Document: - Revision of the Kyoto Convention (TRADE/WP.4/CRP.129)

42. The representative of secretariat introduced document TRADE/WP.4/CRP.129, containing a report on the developments regarding the revision of the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention). In the light of the current phase in the revision of the Kyoto Convention, the delegation were encouraged to contact their national trade facilitation bodies and Customs administrations with the objective to coordinate work on the revision of the Annexes relevant for trade facilitation.

43. The representative of WCO, delegations of the Netherlands, Australia and Sweden participated in the discussion to define the role of CEFACT in this activities. The Chairman proposed to ask the CEFACT Steering Group to establish a special CEFACT group on the subject, possibly with a wider remit than the Kyoto Convention, or to set up a sub-group in the framework of the future CEFACT Group on ITT in connection with a revision of WP.4/Recommendation No.18 "Facilitation measures related to international trade procedures".

Item 5 - Trade documents names and functions

44. The Chairman noted that, with the establishment of ECE/CEFACT, new opportunities have been created for resolving this difficult issue. He hoped that the CEFACT Steering Group would manage to set up a new structure for development of a full list of international trade documents and messages with their coherent definitions. All previous experience of WP.4 in this area would be an useful input to this work.

Item 6 - Aligned forms and the Trade Data Elements Directory (UNTDDED)

45. The representative of the delegation of Romania informed the meeting of the development of aligned international trade documents and informed that two new forms of documents ("Dispatch Advice" and "Documentary Credit Application") had been developed and that they should be transmitted to the secretariat for publishing for the September session of GE.2.

Item 7 - Legal and commercial aspects of trade facilitation

Documents: - Report from the Legal Rapporteurs (TRADE/WP.4/CRP.102)

46. This item was considered at the joint session of GE.1 and GE.2 on legal matters on 20 March 1997. The Report of this joint session is reproduced in the Annex to this Report.

Item 8 - Migration to CEFACT

47. Following the discussion of the substantive agenda items of the current session of the Meeting of Experts, Chairman introduced the GE.2's conclusions and recommendations to the CEFACT Steering Group for the approval by the delegations.

48. Four conclusions should be taken into consideration by the Steering Group for an efficient and smooth migration towards the final CEFACT structures. These should allow a comprehensive work programme.

1. Analysis on the International Trade Transaction

49. In respect of the establishment of the CEFACT Working Group on ITT (document TRADE/WP.4/R.1271), he proposed the following text to be submitted to the session of the CEFACT Steering Group:

" GE.2, during its 55th session in March 1997, carried out an in-depth study on the question of the analysis of the International Trade Transaction, as presented in Document TRADE/WP.4/R.1271, as well as in the explanatory note presented by the Romanian Delegation under Document TRADE/WP.4/CRP.127 on commercial documents and UN/EDIFACT messages.

Referring to Document ECE/TRADE/R.650 and document TRADE/WP.4/R.1281, GE.2, its large majority, reiterated the importance of the analysis of the commercial transaction for the future work of CEFACT; at the same time, it drew attention to the absolute necessity to continue the work on the basis of the methodology which is already accepted by CEFACT for similar analysis activities, in other work areas relating to administration, commerce and transport.

GE.2 strongly recommends to the Steering Group and the Plenary that a permanent group be established and not be restricted to the mere continuation of the previous ad hoc group activities, but on the contrary, should take advantage of the new synergies between trade facilitation and standardization. It should investigate other areas such as information flows in health care, social security, public sector, administration of justice.

Moreover, activities should not be restricted to setting up purely theoretical models, but should lead to the identification of obstacles to the exchange of goods and services and to the finalization of practical recommendations. This was the main concern which generated the first activities of the ad hoc group several years ago, as a support for the revision of Recommendation 18 (Measures to facilitate international trade procedures).

It is the opinion of GE.2 that the new group should cover points 1,3,7,10 and the modelling elements of point 12 of Document TRADE/WP.4/R.1281.

GE.2 proposes that the steering group maintain the activities of the work programme as laid out in document TRADE/WP.4/R.1271, as well as the terms of reference. Nevertheless, it should draw attention to the fact that the list of areas for cooperation mentioned in the document is not an exhaustive one: the work is open to all those who wish to contribute."

2. Codes for ports and other locations - UN/LOCODE

50. Taking into account documents TRADE/WP.4/R.1275 presented by ICS and TRADE/WP.4/CEFACT/CRP.128, the Group of Experts recalls, if necessary, that Recommendation No. 16 on Codes for Ports and other Locations was not to be neglected by CEFACT in view of the growing interest and use of the UN/LOCODE in the various work areas of CEFACT. This is why the Meeting of Experts is of the opinion that the Steering Group should set-up a group, preferably a permanent one, (since updates are regularly required) to deal with the various aspects of UN/LOCODE. These points, as described in TRADE/WP.4/R.1275 and TRADE/WP.4/CRP.128, are either recurrent and

already followed up, or are punctual and should be considered without delay, such as code capacity, diacritic characters, etc..

51. This group should be as open as possible, and should certainly include countries and organisations which already belonged to the previous group. Germany and Belgium would already be incorporated.

52. The Steering Group should finally note that the work will be carried out via the exchange of mail, including electronic mail, and should not therefore call upon extra resources.

3. General problems relating to transport

53. GE.2 wishes to suggest to the Steering Group that problems relating to transport should receive particular attention during the finalization of the detailed work programme. It should be noted that a lot of improvements can still be made to procedures, working documents and required information to meet user's needs whatever the transport mode and/or the type of goods transported. The harmonization and the alignment of documents planned by the various international conventions are one out of many examples. These works should be carried out in consultation with groups of users and interested international, regional, or sectorial bodies.

54. The Steering group could study the possibility of setting up an ad hoc group, dealing with facilitation and efficiency, to coherently define these questions.

4. Revision of the Kyoto Convention

55. GE.2 draws the attention of the Steering Group to the importance of the revision of the Kyoto Convention in the economic sector. Noting that simplified procedures, dealt with in the present convention, are not yet being applied in many developing countries, GE.2, responding to the call of the World Customs Organisation's representative to rely on users' contributions, suggests that the Steering Group either create an ad hoc group with a wider remit to contribute to the Revision of the Kyoto Convention or passes over this task to the permanent ITT group.

5. Other recommendations

56. Finally, GE.2 would like to draw the Steering Group's attention to the fact that the revision or the maintenance of other recommendations of the previous WP.4 not mentioned in document TRADE/WP.4/R.1271 should be considered. In this respect, document TRADE/WP.4/CRP.75 dated March 1996 clearly shows that a large number of international trade practices are still far from being harmonized and simplified, such as: Terms and means of payment, Insurance procedures, etc...

57. The Meeting approved the proposals made by its Chairman and asked him to submit it to the Friday, 21 March 1997 CEFACT Steering Group Meeting together with other necessary supporting documentation.

Item 9 - Other business

Meeting dates and deadlines

58. The secretariat informed delegations of the following CEFACT meeting dates and deadlines for document submission:

<u>Week beginning</u>	<u>Translation</u>	<u>Issuance as WP.4 Document</u>
Monday, 15 September 1997	27 June 1997	18 July 1997

59. The Chairman informed GE.2 that this was his last session and thanked delegations for their very valuable cooperation over a period of 25 years. The former Chairman of WP.4 expressed his and GE.2's appreciation and gratitude for all the efforts and the work done over the years and thanked him for the leadership he had shown as Chairman of GE.2.

60. Contact information for submission of comments, as requested in the above Report:

For analysis of the International Trade Transaction (ITT):

Mr. D.Dima, Convenor of the ITT Group
Directeur Général, Vice-Président ROMPRO
Ministère du Commerce
Romanian Foreign Trade Centre, ROMPRO
17, Apolodor Str.
70661 BUCAREST, Sect 5
Romania
Fax: +401 311 1491
E-mail: ddima@ul.ici.ro

For UN/LOCODE - Code for ports and other locations:

Mr. Ernst SMIRNOV
Trade Facilitation Section
UN/ECE Trade Division
Palais des Nations, Office 440
1211 Geneva 10
Switzerland
Fax: +41 22 917 00 37
E-mail: ernst.smirnov.ece@unog.ch

Copies of contributions should also be sent to the secretariat of CEFACT.

Item 10 - Adoption of the Report of the fifty-fifth session

61. The report of GE.2 was adopted on 21 March 1997 on the basis of a draft prepared by the secretariat.

ANNEX

REPORT OF THE JOINT GE.1 AND GE.2 SESSION
ON LEGAL AND COMMERCIAL ASPECTS OF TRADE FACILITATION
(20 March 1997)

Documents:

TRADE/WP.4/CRP.133 Legal Rapporteurs Report
TRADE/WP.4/R.1282 NORSK-EDIPRO Interchange Agreement (Delegation of Norway)

1. The joint session was chaired by Mrs. B. Curry, Vice-Chairperson of CEFACT. The current Legal Rapporteurs were confirmed in their office under the same conditions as the rapporteurs for the full migration period.

2. The Legal Rapporteurs, Ms. Troye and Mr. Sorieul, reported on the discussions held at the most recent meeting of a sub-group of the Legal Rapporteurs Team in Brussels (March 1997) which would be followed by a meeting in Singapore in April 1997.

3. The Legal Rapporteurs indicated that the UNCITRAL Model Law on Electronic Commerce, adopted in 1996, together with a guide to enactment of the Model law would be published within the coming weeks and would be made available to the UN/ECE secretariat. They also stressed the importance of this document as an interpretative instrument for international conventions to ensure their compatibility with requirements linked to electronic commerce, thus avoiding entire revisions of these conventions. They added that the usefulness of the Model Law might be further illustrated in the context of the revision of document TRADE/WP.4/R.1096, currently undertaken by the SITPRO secretariat, with support from the UNCITRAL secretariat.

4. The Legal Rapporteurs also gave an overview of the work on the new UNCITRAL project on digital signatures and certification authorities which had recently begun, highlighting some of the issues under discussion such as the need for an international standard on certification, verification of digital signatures by means of public-private keys and the issue of liability of certification authorities. The Australian delegate informed about initiatives in his country on certification authorities, public-private keys and the UNCITRAL Model Law on Electronic Commerce (document TRADE/WP.4/CRP.133). Information on these initiatives would be made available to the secretariat.

5. Recommendation 26 (Interchange agreements): Attention was drawn to document TRADE/WP.4/R.1282 which presented the NORSK-EDIPRO Model Interchange Agreement and in response to an observation by the Dutch delegation, the Legal Rapporteurs noted that the Agreement had been examined and that it has been suggested that the LRT might draw its attention to the technical annex of the Model Interchange Agreements as part of the work programme. This work could be undertaken in view of the implementation of Recommendation 26. The Legal Rapporteurs also mentioned that a need to review the Model Interchange Agreement (Recommendation 26) in the light of the development of electronic commerce using Internet might be agreed upon. Comments from delegations on this issue were requested.

6. Negotiable Documents: The Legal Rapporteurs noted that several on-going initiatives had been monitored, such as the ICC-E100 project and SITPRO's proposal on the replacement of paper-based letters of credit, and the BOLERO scheme. However, the Legal Rapporteurs also stressed that the lack of resources had caused considerable delays in the progress made in this area as well as in the analysis of the data received on International Trade- National Legal and Commercial Practice Barriers.

7. Cooperation with other international bodiesThe Legal Rapporteurs mentioned that some progress had been made in the cooperation between the LRT and the ICC-E-100 project (in particular, the legal and regulatory Group).

8. Future work programme:The Legal Rapporteurs outlined a proposed up-dated work programme which was considered necessary in the light of the migration process to CEFACT, the near completion of the current work programme and the emergence of new items of work. It was stressed that any future work should take all forms of electronic commerce into consideration, including both structured and unstructured message formats, and consider as well the impact of the rapid growth of the Internet and its interface with EDI process. The Legal Rapporteurs proposed the following up-dated programme of work which would be discussed at the next LRT meeting to be held within the framework of the Singapore JRT:

- examination of the invoicing cycle for international trade transaction, focusing in particular on electronic invoicing and self-billing as a number of legal obstacles persisted;
- continuation of the work on "document, signature and writing" requirements;
- promotion of the use and implementation of the UNCITRAL Model Law on Electronic Commerce;
- assessment of the legal implications of a number of messages developed in areas relating to accountancy, registration and auditing, as well as some others such as the "contractual conditions" message;
- examination of the role of certification authorities;
- analysis of the potential impact of data protection legislation on message development processes and message users;
- continuation of the work on negotiability.

9. In response to a question raised by the Dutch delegate, the Legal Rapporteurs also mentioned that issues linked to "trusted third parties" would be included under the work item "certification authorities". In that respect, the work of UNCITRAL with respect to certification authorities would be fully taken into consideration.

10. The delegation of the United Kingdom expressed its support for the proposed work programme highlighting the fact that resources were critical to ensure its success and requesting the CEFACT Steering Group and the UN/ECE secretariat to address this issue.

11. The Legal Rapporteurs also mentioned that contacts had been established with the TEDIC project and a meeting of the LRT would be necessary to examine further this project and make suggestions.

12. WP.4 Re-engineering process The Legal Rapporteurs reported that at the Brussels meeting of a sub-group of the LRT the issue of establishing a permanent legal group, the CEFACT Legal Group, and its mandate within the CEFACT structure had been discussed. The draft mandate which was being distributed to all members of the LRT would be discussed further at the next LRT meeting in Singapore, before being submitted to the CEFACT. The Legal Rapporteurs briefly presented a draft mandate (see below), noting the need for guidance by the Steering Group on how the CEFACT Legal Group could best serve the requirements and tasks addressed within CEFACT. Clarification from the Steering Group was also requested on the issue of recommendations to be prepared by the Legal Group and the allocation of resources to liaison with other groups and international organizations.

13. The draft mandate read as follows:

"

**CEFACT LEGAL GROUP
Draft Mandate**

1. Introduction.

It is proposed to CEFACT to establish a permanent working group named the CEFACT Legal Group.

As international trade develops and is supported by new technologies which impact on global practices and procedures, the legal implications and potential constraints resulting from those developments need to be identified and analyzed.

The removal of legal impediments is a key requirement to enable global trade to develop and be facilitated, thereby supporting the realization of the CEFACT mandate.

2. Mandate.

2.1. Purpose.

The CEFACT Legal Group is the forum empowered by CEFACT to address the legal issues of international trade practices and procedures supported by the use of new technologies including electronic commerce and EDI.

The Legal Group will approach these legal issues from a pragmatic standpoint and endeavour to provide practical solutions for the benefit of the user community.

It will do so by identifying relevant legal issues, analysing the key issues to determine actions to be undertaken and propose solutions and practical tools to address the legal impediments identified in this process.

2.2. Key deliverables.

The key deliverables will include:

- the issuing of reports on specific legal issues following research and reviews,
- the drafting of guidelines to support widespread awareness of best practices,
- the issuing of recommendations relating to the removal of legal impediments through practical tools or suggestions for legal actions to appropriate bodies or organizations.

The specific legal issues to be addressed will be determined in the Terms of Reference.

Key deliverables need to be made available through a Web site directly connected to the CEFACT Web site and linkage needs to be ensured with other relevant Web sites such as the UNCITRAL Web site.

2.3. Geographical focus.

The focus of the CEFACT Legal Group is at global level. It is based on requirements being expressed by national user groups or reflected through research, reviews and analysis and upon consultation with internal or external sources.

The responsibility of the Legal Group is to produce globally applicable deliverables.

2.4. Functional expertise for membership.

The membership of the group will be open to all CEFACT delegations or users provided that the functional expertise of the group collectively results in a detailed knowledge of legal matters relating to international commerce, trade facilitation, use of electronic commerce and related technologies and processes. Experts, once designated, are expected to contribute actively to the work based on their expertise.

2.5. Delegated responsibilities.

It is proposed that the CEFACT Legal Group be empowered:

- to establish sub-groups and supporting teams as required;
- to prepare, present and issue recommendations according to agreed upon procedures laid down in the Terms of Reference;
- to issue contributions to strategic policy issues;
- to co-operate and establish liaisons with other groups and organizations as required.

2.6. Resources requirements.

Requirement for Centre resources:

It is estimated that at least one half man/year of the UN/ECE secretariat resource will be required, including appropriate travel and subsistence resources to attend meetings outside the secretariat permanent location subject to a review of this requirement every two years. This resource will be required to ensure the appropriate secretariat support for the Legal Group and the implementation and achievements of the Terms of Reference, including support for co-ordination with other organizations.

Additional financial resources will be required to set up and maintain a Web site and the linkages with other Web sites. Further extra-budgetary resources might prove necessary to address specific areas of concern of work items through research or consultancy.

Substantial additional contributions will be expected from members of the Legal Group.

3. Recommendations for the Procedures.

New work items should be supported by submissions of member of the working group.