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**ECONOMIC COMMISSION FOR EUROPE**

**COMMITTEE ON TRADE**

Centre for Trade Facilitation and Electronic Business (UN/CEFACT)

Twelfth session

Geneva, 22-24 May 2006

Item 12 of the provisional agenda

**ORGANIZATIONAL MATTERS**

UN/CEFACT Intellectual Property Rights Policy

Note by the UN/CEFACT Bureau

Addendum

Executive Summary

This is an executive summary of the UN/CEFACT IPR Policy and the UN/CEFACT Disclaimer (see UN/CEFACT document ECE/TRADE/CEFACT/2006/11). This summary is intended for explanatory purposes only and is not a legally binding document. For a full understanding of the IPR Policy and Disclaimer, please refer to the original document.

## **I. Waiver Obligation of the IPR Policy**

1. The UN/CEFACT IPR Policy (“Policy”) is designed to promote the goal of enabling the implementation of UN/CEFACT Specifications without the burden of fees or restrictions. The Policy promotes this goal by requiring all Participants in a UN/CEFACT Forum Group to waive their rights to enforce any of their intellectual property (“IPR”) that would be necessary to implement or use a Specification developed in that Forum Group (“Essential IPR”). IPR includes all intellectual property, such as patents, copyrights, trademarks, and trade secrets. The Participant’s waiver is limited in the sense that it applies only to publication of the Specification and parties implementing the Specification, and only to the extent of such implementation. All other rights are retained by the Participant. The waiver is automatic if the Participant does not disclose the IPR, and is required as a condition of participating in the UN/CEFACT open development process.

## **II. DISCLOSURE OBLIGATION OF THE IPR POLICY**

2. A Participant in a UN/CEFACT Forum Group can avoid the limited automatic waiver only by disclosing the content of its relevant IPR, and electing not to waive its rights to enforce such IPR, on or before one of the express “Disclosure Triggering Events” described in the Policy. These events are keyed to the milestones in the Specification development process, such as the publication of the first working draft, the end of the public review period, etc. A Participant must designate an “Authorized Individual” to represent and bind the Participant with respect to the obligations of the Policy, including the disclosure obligation. When a Disclosure Triggering Event occurs, should the Authorized Individual fail to disclose a Participant’s Essential IPR that they have knowledge of, the enforcement of such Essential IPR is automatically waived. Moreover, upon the final disclosure triggering event (5 days after final technical specification release), the enforcement of all undisclosed Essential IPR is waived, regardless of the Authorized Individual’s knowledge. In summary, should a Participant seek to preserve its rights to enforce its IPR against implementers of a UN/CEFACT Specification, the burden falls squarely on that Participant to disclose its IPR.

## **III. EXCEPTION HANDLING IN THE IPR POLICY**

3. Once a Participant discloses Essential IPR, the Policy provides for the formation of an Intellectual Property Advisory Group (“IPAG”). The IPAG is an ad-hoc group consisting of at least two Vice-chairs of the Plenary, the Chair and Vice-chair of the Forum Management Group (FMG), relevant Forum Group Chairs and others that may be suggested by the FMG or Plenary Bureau. The IPAG will consider the IP conflict at issue and arrive at one of the specific conclusions outlined in the Policy.

#### IV. UN/CEFACT Disclaimer

4. In the annex to UN/CEFACT Document **ECE/TRADE/CEFACT/2006/11**, there is a Disclaimer that must be included in the publication, on the website and in any other form of presentation of UN/CEFACT outputs covered by the IPR policy.

5. The main purpose of this Disclaimer is to call the attention of implementers to the fact that:

(a) any third party intellectual property rights claims related to the **Specification** will be their responsibility.

(b) UN/CEFACT takes no position with regard to the evidence, validity or applicability of any claimed IPR by third parties related to the implementation of the Specification.

(c) UN/CEFACT will not accept any liability for any possible infringement of IPR.