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UN/CEFACT structure, mandate, terms of reference, and procedures

Updated executive summary of the UN/CEFACT Intellectual Property Rights Policy

Submitted by the UN/CEFACT Bureau for noting

Addendum

Summary

This is a revised executive summary of the UN/CEFACT IPR Policy and the UN/CEFACT Disclaimer (see UN/CEFACT document ECE/TRADE/CEFACT/2010/20/Rev.2). The 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 current version of the IPR policy.

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 UN/CEFACT work 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 work (“Essential IPR”).

2. 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 to 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. It is required as a condition of participating in the UN/CEFACT open development process.

II. Disclosure Obligation of the IPR Policy

3. Participants in UN/CEFACT work can avoid the limited automatic waiver only by disclosing the content of their relevant IPR, and electing not to waive their rights to enforce such IPR, on or before one of the express “Disclosure Triggering Events” described in Section IV.D of the Policy.

4. These events are keyed to the milestones in the Specification development process, such as the publication of the first working draft or the end of the public review period. 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.

5. 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 their rights to enforce their IPR against implementers of a UN/CEFACT Specification, the burden falls squarely on that Participant to disclose their IPR.

III. Exception Handling in the IPR Policy

6. 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 UN/CEFACT, the leader of the project concerned, other relevant project team leaders and domain coordinators, and others that may be suggested by the Bureau. The IPAG will consider the particular IP conflict and arrive at one of the specific conclusions outlined in the Policy.

IV. UN/CEFACT Disclaimer

7. The annex to document **ECE/TRADE/CEFACT/2010/20/Rev.2** contains 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.

8. 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) ECE 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) ECE will not accept any liability for any possible infringement of IPR.
