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10 November 2016

Dear Mr. Sazonov,

Following up on our conference call on 26 September 2016 during the 28th UN/CEFACT Forum in Bangkok, the Bureau would like to provide you with an official update on the current status of the project for which you are Project Leader, "Ensuring Legally Significant Trusted Transboundary Electronic Interaction."

This project was discussed at meetings of the Bureau on 29 August and 15 September. During these discussions, several key issues were identified with regard to the current draft version of the recommendation.

The current draft of your project's text (version 0.96) foresees the establishment of an international coordination council as well as an international exchange platform for trusted exchanges. It also calls for a harmonization of legal frameworks under a UN body such as UNCITRAL.

It is expected that Recommendations should be actions that any government can implement, if they so wish. However, it is observed that the current draft recommendation of TTP may fall short of implementation for want of above mentioned convention and supporting institutions. These pre-requisites appear difficult to achieve for all countries.

It may be pertinent to mention that International regulation can only be done via treaties and conventions: international standards are voluntary, and agreements between participants are legal contracts but can change at any moment, on the basis of mutual agreement, so they are also not "international regulations").

Mr. Aleksandr Sazonov
Project Leader of the Recommendation for ensuring
legally significant trusted transboundary electronic interaction
Moscow, Russian Federation

At the same time, the Bureau recognizes the difficulty that many governments are facing in establishing legal recognition for cross-border electronically exchanged documents and the importance for trade and trade facilitation of resolving this issue. Currently countries are trying to resolve this issue through bi-lateral, sectoral and, sometimes, regional agreements. All of these vary in content, thus creating complexity – one of the main “enemies” of trade facilitation.

The current draft recommendation contains some very useful ideas with respect to how governments and the private sector could work together to manage legally-significant trans-boundary electronic interactions. Given that a “one solution for all” is currently unlikely, the draft recommendation also contains some very useful descriptions of common performance characteristics that an international, regional or bi-lateral trust infrastructure should have. Note – we should not be prescriptive from an organizational standpoint as the organizational requirements may vary from one sector to another and group of countries to another (in the case of regional agreements).

We raised these issues with you in our conference call in the margins of the UN/CEFACT Forum in Bangkok. As agreed at that meeting, we are now writing to explain our views on this issue. The UN/CEFACT Bureau, taking into account the extensive and valuable work that has already been done by the project team on this recommendation, proposes the following steps to further advance the project:

- 1) The finalization and approval of a Recommendation outlining those characteristics that should be found in “arrangements for providing legal recognition to electronic signatures of foreign origin and for ensuring inter-operability of electronic signatures.” Since this recommendation will also address legal matters, we envisage that close cooperation with international institutions like UNCITRAL will be necessary.
- 2) A major international 2-day conference in 2017, organized together with UNCITRAL (if possible), to present existing bi-lateral, regional/multi-lateral, sectoral and document-based systems for providing legal significance to electronic documents and ensuring the inter-operability of electronic signatures. This should be done with the objectives of: i) identifying best practices; and ii) defining ways forward for like-minded countries and identifying institutions to take the lead in such initiative(s).

Step 2 above, if countries so wish, could become the platform for launching work on an international framework or agreement. Such Frameworks/Agreements require the establishment of a separate, temporary, inter-governmental body whose sole purpose is the negotiation of the Framework/agreement. Therefore, approval for work to start must come from the organization's governing body EXCOM (in the case of UNECE). Negotiations normally take at least 18-24 months and must include proposals for sustainable financing that does not come from the UN regular budget.

As a result, a very strong argument is needed, based on the costs (economic, social or environmental) of not having an agreement and backed up by real life examples (which such a conference could provide). In order to ensure approval for negotiations to start and eventual approval the UNECE secretariat's experience shows that it is very important that the request to EXCOM, or other high-level intergovernmental bodies, be made by official government representatives with the support of their ministries of foreign affairs.

Thank you for your continued and valuable cooperation.

Yours sincerely,



Maria Rosaria Ceccarelli
UN/CEFACT Secretary

on Behalf of UN/CEFACT Bureau

