

SWI – LEGAL ENVIRONMENT

2014 JULY 24, 15:00 CET

Attendance

Present :	Excused absence :
RAILAS Lauri, Krogerus, FI FIELD Richard, Lawyer, US IGWE Estelle, NEPC, NG SMEDINGHOFF Tom, Edwards Wildman Palmer, US THOMPSON Lance, Conex, US	LUDDY Bill, US

Summary of the meetings:

Discussed main issues:

What are the “ten things” that we need to address?

What are the legal issues that need to be resolved in cross-border SWI?

What do we need to solve as a problem?

- Data sharing issues (privacy)
- Signatures (Rec 14 & the Trusted Trans-boundary project)
- Jurisdiction
 - Which law governs?
 - Do we need legal harmonization?
 - Is UN/CEFACT the proper body to handle this?
- Responsibility of the filers and the partner S.W. environments
- Enforceability of contracts

What are the legal barriers? What are the problems we need to solve?

How to solve them?

- Using Rec35 (perhaps modifying a little or adding new topics)
- Impact of other organizations on our work? (WTO TFA?)
- Distinction of type of single window
 - Under private law
 - Under public law

Trade law issues

Criminal law issues

- For signatures (frauds, prosecution if false document submitted, penalties, increase of tariffs, jail...) jurisdiction over the person and enforceability over the purported signatory.

What are we dealing with? Corporate filings? G2G? Payments?

Outstanding Action	Owner	Deadline
Further develop outline structure	Entire Group	2014/08/14

Proposed outline of SWI – Legal Environment section:

1. Objective of the discussion paper
2. Approach chosen
 - 2.1. Cross-border interoperability
 - 2.2. Regional Single Windows
 - 2.3. Regulatory Issues
 - 2.4. Relationship with Recommendation N° 35
3. Legal issues involved in cross-border single window interoperability
 - 3.1. General observations
 - 3.2. The legal basis of establishing cross-border interoperability
 - 3.3. Appropriate organizational structure
 - 3.4. Identification, authentication and authorization procedures
 - 3.5. Right to obtain data from the Single Window
 - 3.6. Data protection
 - 3.7. Accuracy and integrity of data
 - 3.8. Liability issues
 - 3.9. Criminal law
 - 3.10. Archiving and audit trails
 - 3.11. Intellectual property and database ownership
 - 3.12. Competition law
 - 3.13. Dispute resolution