

RECOMMENDATION 14 REVISION WORKING GROUP

CONFERENCE CALL

24 OCTOBER 2012, 13:00 CET

Attendance

Present:

Lance THOMPSON, Conex (FR)
Andre CACCIA, Hub2Hub (IT)
Benoit MARCHAL, EDIFICAS (BE)
Bill LUDDY, Legal Council WCO (US)
Carlo SALOMONE, AITI-EACI (IT)
Chantal PRALIAUD, Imprimerie Nationale (FR)
Christiaan VAN DER VALK, Trustweaver/ICC (BE)
Jae Sung LEE, UNCITRAL (AT)
Jari SALO, Tieke (FI)
Jean-Michel KALISZEWSKI, IATA (CH)
Johan STOOPEN, Dutch Customs (NL)
Josephine BAIAMONTE, CBP (US)
Kenneth BENGTSOON, Alfa Lab (DK)
Lucy THOMSON, Mindspring (US)
Marco SORGETTI, FIATA (CH)
Maria Rosaria CECCARELLI, UNECE (UN)
Michael COFFEE, State Dept / UNCITRAL (US)
Raffaella MIGLIORINI, Min. of Economy Consip (IT)
Richard CRESTA, GS1 (CH)
Richard FIELD, Lawyer (US)
SP SAHU, WCO (WCO)
Tahir HASNAIN, IATA (CH)

Absents:

Gordon CRAGGE, Editor Rec14 (GB)
Johan PONTEN, Kommerskollegium (SE)
Eva CHAN, dJava Factory (MY)
Gérard GALLER, Communication Networks,
Content & Technology DG (EU)
Herbert PUTTENEERS, IPC (BE)
Nishio SHIGETAKA, Jastpro (JP)
Peter KUSTOR, Chancellery (AT)
Thomas J. SMEDINGHOFF, Edwards
Wildman Palmer LLP (US)

General summary – overview

- Several technical difficulties with the “Go-To-Meeting” which delayed the start. It also cut before the end of the call so that it was necessary to finish with just the telephone conference call. Apologies for these difficulties and to anyone who was not able to join.
- First a general presentation of UN/CEFACT relevant aspects for experts’ reference (structure, organization, participation, code of conduct, IPR policy, Forum meeting, Confluence website, ODP process...)
- The Vienna Forum Rec14 Meeting Summary was approved.
- Several points concerning the Rec14 outline were discussed and a modified outline is attached (some points are pending further input). All discussion points are attached below.
- The principle of the Annex A (legally enabling environment) template was approved in principle, but pending input from a selection of submitting agencies to verify that it is valid and usable.
- Next conf call planned in November.
- Proposition of a face-to-face interim meeting in December (or January) will be suggested.
- The April Geneva Forum meeting date is set for Tuesday, April 16th (with a smaller working group on the 17th if there is interest).

Detailed summary of each agenda item

(key points in red below)

UN/CEFACT Mission:

- “...UN/CEFACT supports activities dedicated to improving the ability of business, trade and administrative organizations, from developed, developing and transition economies, to exchange products and relevant services effectively. Its principal focus is on facilitating national and international transactions, through the simplification and harmonization of processes, procedures and information flows, and so contributing to the growth of global commerce. This is achieved by:
 - Analysing and understanding the key elements of international processes, procedures and transactions and working for the elimination of constraints
 - Developing methods to facilitate processes, procedures and transactions, including the relevant use of information technologies;
 - Promoting both the use of these methods, and associated best practices, through channels such as government, industry and service associations...”

UN/CEFACT Organization overview

- UN/CEFACT is a branch of UNECE in which the private sector is invited to participate as experts in their fields
- CEFACT is organized into Program Development Areas (PDAs) and Project Teams.
 - Revision of Recommendation 14 is a Project Team under the Transport, Trade Facilitation and Customs PDA.

Trade Facilitation: why bother? (Kommerskollegium report)

- The Number of signatures and documents needed for a trade transaction correlates with number of days spent at the border (OECD)
- If Sub-Saharan Africa were to reduce number of signatures to world average it would mean cutting signatures by 82,5 %, but would also theoretically mean an increase in trade flows by 81,5 % (OECD Trade Policy Working paper no. 42, Wilson, 2005)
- Principles in Trade Facilitation
- Benefits for governments from Trade Facilitations
- Benefits for trade (business) from Trade Facilitations

UN/CEFACT Participation

- **All experts working on Project Teams should be on a UN/CEFACT delegation** (either a national delegation or a particular organization’s delegation)
 - This process is very easy, free and has no direct obligations besides acknowledging & accepting UN/CEFACT.
 - **Rec14 Revision Chair, Lance Thompson will contact all experts in the coming weeks to ensure that they are properly registered** (especially so that they can access the UN/CEFACT tools such as Confluence).

UN/CEFACT Code of Conduct and IPR

All participation in UN/CEFACT Project Teams and standardization work implies acceptance of UN/CEFACT policies, including:

- Code of conduct
 - Impartiality (treat everybody fairly, respect right of privacy of all participants, respect legitimate IPR)
 - Neutrality (avoid promoting individual companies, avoid personal/professional/financial conflicts of interest)
 - Available on Rec14 Confluence page.
- UN/CEFACT Intellectual Property Rights
 - Waiver obligations (Specifications developed in UN/CEFACT working groups cannot be patented by any participant in that group)

- Disclosure (if participant has pre-existing IPR that is being developed in UN/CEFACT working group, it must be brought to the attention of the Chair of the Plenary on or prior to first milestones)

UN/CEFACT other housekeeping notes

- UN/CEFACT Forum meetings
 - Face to face meetings where most decisions are initiated.
 - Next Forum meeting will be Geneva, 15 – 19 April 2013
 - Proposed Rec14 Revision W.G. face-to-face meeting:
 - **Tuesday 16 April 2013, Geneva Forum Meeting (+ Wed 17 April for those who want to work in a smaller group).**
- UN/CEFACT Confluence website
 - Brief overview of its use and where to find documents
 - <http://www1.unece.org/cefact/platform/display/CNP/Revision+of+Recommendation+14%2C+Authentication+of+Trade+Documents+by+Means+other+than+Signature>
 - Can also be accessed through : <http://www.unece.org/cefact>
 - Choose “Projects”
 - Choose “Recommendation 14”
- UN/CEFACT Project ODP (Open Development Process)
 - Project inception
 - ~~Information gathering~~
 - Draft Development
 - (Internal Review)
 - Public Review (approved first by Bureau then by UNECE plenary)
 - Publication
 - Maintenance
- Recommendation 14 Comment Log
 - Format is equivalent to other UN/CEFACT projects. It is obligatory once a public review is opened.
 - All comments during the public review are public and are nominative.
 - Proposition to use this format (perhaps less strictly) during Draft Development.

Vienna Forum Rec14 Revision W.G. meeting summary

- All slides are available on the Rec14 Confluence website.
- Summary of the meeting has been circulated to all interested parties.
 - No comments or modification requests have been received.
 - The summary is available on the Confluence website.
 - **The summary was approved by the experts on the conference call.**

Recommendation 14 outline – points discussed:

N°	Proposer	date	Proposed change	Action taken
DL01	Rec37 WG	15/10/2012	The title should encompass the word "manual" or "ink" to clarify the scope of the document in order to not lead to misinterpretation.	Should probably rethink the title completely. Wait until recommendation is developed before generating a title. "Authentication of trade & other documents..." or "Electronic documents..."
DL02	Rec14	01/03/1979	Main recommendation is: * eliminate all signatures and authentication unless essential for the function of the data/document transmitted * when signature is necessary, enable electronic means of replacing the manual signature	Confirmed (should discuss e-seal separately at a later time)
DL03	Vienna Forum & UNCITRAL "Promoting Confidence..." & FI Min Transport/Tel	18/09/2012	Additional recommendation: * choice of electronic solution should be proportionate to the level of security called for by the data/document transmitted (not everything has to be certified...) This can also be called "security assurance levels" as presented in FI Ministry of Transport & Telecommunication comments	Kept open for the moment; to be discussed later . It is within the scope, but to be checked on the legal side.
DL04	Rec37 WG	15/10/2012	Request was made to make a clear distinction between document certification with signature on the one hand and process certification on the other. Suggest that this could enter into Part 2, chapter 5; furthermore, this can complete a 'typology' provided by UNCITRAL in their "Promoting Confidence..." document for example for the annex B on technological solutions.	This is already part of the project proposal and could be addressed in the typologies of Annex B
DL05	LT	24/10/2012	Part 2 Chapter 4 (signature and proof of authenticity, integrity and veracity) are aspects of the function of a signature and should therefore be presented in Chapter 2 (definition & function of signature)	Approved

N°	Proposer	date	Proposed change	Action taken
DL06	LT	24/10/2012	Part 2 Chapter 6 (approval, registration and authorization to use other authentication methods) - it is unclear if this is pertinent to all forms of electronic signature. Are scanned signatures registered and approved? Are ID/password systematically approved or can they be individually generated by user?	"Use of other authentication methods" (party autonomy, registration, or other methods...)
DL07	LT	24/10/2012	Part 2 Chapter 7 (security of data, including transmission). I believe that this title needs to be reworked. Perhaps merged with a chapter on archiving and retrieval of data...	Perhaps rename the chapter: "Security of the data: transmission, archiving, retrieving" perhaps archiving & retrieving should have a lower importance in the recommendation. It should be mentioned as it is part of the process but not a too large part.
DL08	Vienna Forum	18/09/2012	From the Vienna meeting, it seems that a chapter on archiving and retrieval of data will be necessary.	idem
DL09	LT	24/10/2012	Part 2 proposed new chapter on archiving and retrieval of data. If the use of an electronic signature is obvious when transmitting data, it also must be able to be used in order to archive and retrieve data at a later time. Perhaps this should/could be presented with the chapter on "security of data, including transmission"	idem
DL10	LT	24/10/2012	Part 2 Chapter 9 (data transmission issues who, what, when, where, how). Though the title is very clear, I am not sure that this will pertain to all forms of electronic signature (an ID/password will not give elements of when and where it was associated to electronic data, for example). The information on "who" should be addressed in chapter 2 (function of signature). The information on "what" and "how" should be addressed in the "other methods" chapter.	Can be eliminated since it is being discussed elsewhere.

N°	Proposer	date	Proposed change	Action taken
DL11	LT	24/10/2012	Should the "checklists" be presented in Part 2 of the Recommendation, or in the corresponding annexes?	Defer for the moment
DL12	LT	24/10/2012	Initial draft of Annex A (legally enabling environment) template for submissions	Ask for public authorities' opinion if usable or not. To be discuss on next conf call.
DL13	Vienna Forum	18/09/2012	Initial suggestion that Annex B (technological solutions) be organized in "Typologies" as found in UNCITRAL main document * digital signatures [further divided into fail-stop digital signatures, blind signatures, undeniable digital signatures], * biometric methods, * passwords and hybrid methods, * scanned or typed signatures) and adding at least two further categories: * complete elimination of signature, * authentication through means of transmission (VPN, fax, etc.)	
DL14	UNCITRAL & FI Ministry of Transport +Telecommunications	24/10/2012	Technological neutrality is very important for the recommendation. There should be alternative options and technologies available for the authentication of the trade documents	
DL15	WCO DMPT	16/10/2012	Is this recommendation solely concerned with <u>trade documents</u> , or also object authentication (ie container seals)?	
DL16	conf call	24/10/2012	Part 2, chapters 5 & 6 should be moved up inbetween chapters 1 & 2 of Part 2	approved
DL17	conf call Marco	24/10/2012	Party autonomy & agreeing on a principle of electronic exchange to be perhaps included as a chapter in Part 2	To be further discussed, perhaps with some more legal input.

On DL07, DL08 & DL09, Archiving and retrieval reference provided by ETSI of Italy, Mr. Andrea Caccia:
http://www.etsi.org/deliver/etsi_ts/101500_101599/10153301/01.03.01_60/ts_10153301v010301p.pdf

RECOMMENDATION 14 – OUTLINE

Parts in Red are pending further discussion

Authentication of Trade Documents by Means Other Than a (Manual) Signature
–or– Authentication of Electronic Trade Documents / Data
–or– To be determined...

PART ONE - RECOMMENDATION

1. Introduction
2. Scope
3. Benefits
4. Recommendation

PART TWO IMPLEMENTING GUIDELINES

1. Introduction
2. Other options than signature
3. Use of other authentication methods
4. Definition and function of signature
5. Requirement for signature on trade documentation
6. Security of data: transmission, archiving, retrieval
7. Conduct of trade document review process
8. Checklist for the creation of a legally enabling environment (here or in annex A or new annex?)
9. Checklist for functional requirements of digital evidence (integration of the work of the previous draft Recommendation 37 – here or in annex B or in new annex?)

ANNEX A EXAMPLES OF LEGALLY ENABLING ENVIRONMENTS FOR DEMATERIALIZED TRANSACTIONS

- *Propose a template for submissions*

ANNEX B EXAMPLES OF TECHNICAL SOLUTIONS THAT ALLOW THE ELIMINATION A (MANUAL) SIGNATURE FROM TRADE DOCUMENTS

Propose a template for submissions (perhaps different for each type of solution)

Proposed organization of received solutions by typologies (based on UNCITRAL “Promoting Confidence” document)

- digital signatures (encryption, PKI, ...)
- Communication methods (methods which allow data exchange and authentication is realized through the method of communication, ex. VPN, ...)
- biometric methods
- ID & password methods
- scanned or typed signatures
- no signature methods (methods that allow dematerialization of trade documents with no authentication on individual data transfers)

MODEL TEMPLATE FOR REC14 ANNEX 1 SUBMISSION (LEGALLY ENABLING ENVIRONMENTS)

Proposed

Any points that do not apply, just skip.

If responses are only from a certain domain point of view, please note that (i.e. "From a customs point of view, ..."). Also indicate if there are intentions to implement where applicable.

Please try to be brief and keep the total response under two pages.

- I. LEGAL CONTEXT (VERY BRIEF)
 - a. Type of legal system (civil law / common law / other...)
 - b. What is the fastest that a legally enabling environment can be created? (delay, process)
 - c. Environment for adding / amending laws
 - i. Fast track, parliamentary, ...?
 - d. What types of trade documents must be signed/authenticated?
 - e. Are there trade documents which do not legally require a signature? (transport documents, **other examples to be mentioned**, etc.)

- II. TRANSITION TO ELECTRONIC ENVIRONMENT
 - a. What considerations needed to be addressed before passing any laws creating the legally enabling environment?
 - b. How was the private sector involved in the process (public outreach, commentary period, etc.)?
 - c. Were there any unexpected obstacles or complications that needed to be addressed?

- III. REMOVING MANUAL SIGNATURE LEGAL ENVIRONMENT
 - a. Please briefly note current laws and their role in removing manual signature / enabling electronic exchange of trade-related documents.

- IV. RESULTING IMPLEMENTATION IN PUBLIC SECTOR (RELATING TO TRANS-BOUNDARY TRADE)