RECOMMENDATION 14 REVISION WORKING GROUP

CONFERENCE CALL

20 NOVEMBER 2012, 13:00 CET

Attendance

Present:	**Excused absents:**
Lance THOMPSON, Conex (FR)	André SCEIA, UNECE (UN)
Johan PONTEN, Kommerskollegium (SE)	Chantal PRALIAUD, Imprimerie Na'le (FR)
Alexander SAZONOV, RCC (RU)	Christophe HYPOLITE, FR Customs (FR)
Anders TORNQVIST, Comfact (SE)	Ervin CANO, Firma-e (GT)
Andre CACCIA, Hub2Hub (IT)	Ken MOYLE, DocuSign (US)
Bill LUDDY, Legal Council WCO (US)	Jae Sung LEE, UNCITRAL (AT)
Carlo SALOMONE, AITI-EACI (IT)	Jina CHOI, Cupia (KR)
Dominique VANKEMMEL, Normafret (FR)	Johan STOOPEN, Dutch Customs (NL)
Gérard GALLER, EU Commission (EU)	Kerri AHN, KL-NET (KR)
Herbert PUTTENEERS, IPC (BE)	Michael COFFEE, State Dept/UNCITRAL (US)
Jari SALO, Tieke (FI)	Peter KUSTOR, Federal Chancellery (AT)
Jean-Michel KALISZEWSKI, IATA (CH)	Sonia PARK, NIPA (KR)
Josephine BAIAMONTE, CBP (US)	
Marco SORGETTI, FIATA (CH)	
Michael LAURI	
Moudrick DADASHOV, SSC (LT)	**Other absents:**
Raffaella MIGLIORINI, Min. of Economy Consip (IT)	Anders GRANGARD
Railas LAURI, (FI)	Benoit MARCHAL, EDIFICAS (BE)
SP SAHU, WCO (WCO)	David BRINKMAN
Tahir HASNAIN, IATA (CH)	Kenneth BENGTSSON, Alfa Lab (DK)
Tom SMEDINGHOFF, Edwards Wildman Palmer (US)	Nigel TAYLOR, GXS (GB)
	Richard CHRESTA, GS1 (CH)

General summary – overview

Rec14 experts should be registered with CEFACT – see below.
If interested in a face-to-face meeting (in the US or in the EU) please contact Lance THOMPSON before the next conference call mid-December.
It was suggested to have perhaps smaller working groups on the submissions. This could be used for the elaboration of the chapters as well.
Individual submission ideas were discussed in chapter 3; plan to continue during the next conf call.

Detailed summary of each agenda item

(points that may require your action in red below)

Registration as UN/CEFACT expert:

- Each participant in the Recommendation 14 Working Group should be registered as an expert with a UN/CEFACT Head-of-Delegation.
    - To do so, please submit the form attached to the Conference Call agenda back to Maria Rosaria CECCARELLI at Maria.Ceccarelli@unece.org
    - On this form, please indicate within the following fields
        - AREAS OF INTEREST: International Trade Facilitation Procedures
        - EXPERTISE: Other: Electronic Signature (And any other that may apply to your profile)
        - UN/CEFACT DELEGATION (HoD),

- The country where your main profession activity is.
- Or an international organization with a recognized HoD like the WCO…
- If in doubt, please don't hesitate to contact me or Mrs. Ceccarelli.

UN/CEFACT Geneva Forum: April 15 to 19, 2013

Registration to the Geneva Forum is open and free for all UN/CEFACT Experts.
http://www.unece.org/index.php?id=30903

Recommendation 14 Working Group will meet on Tuesday, April 16th all day during this Forum.
There will be other working groups during the week that may be of interest to experts, such as:

- The open plenary will be held on Monday, April 15th in the morning and can give a good idea of all the other projects which will be discussed during the Forum.
- Proposed recommendation of transboundary trust space (probably on the Wednesday, April 17th or Monday, April 15th – waiting on response)
- Proposed recommendation on Single Window Interoperability (probably Wednesday and Thursday, April 17th & 18th)

Hotels in Geneva can be rather expensive. It is highly recommended to make reservations (at least for the hotels) as early as possible.

Update on the Confluence Website

All relevant documents on Recommendation 14 are on the UNECE Confluence website:
http://www1.unece.org/cefact/platform/display/CNP/Revision+ofRecommendation+14%2C+Authentication+of+Trade+Documents+by+Means+other+than+Signature

- I am trying to discuss with the UNECE the best way to present all of the work on this website.
- If you do not find immediately the documents that you are looking for, please click on the links in blue in the 'Relevant Documents' column to see if they are perhaps on another page.
- Once you have been registered as a UN/CEFACT expert, you will receive an ID and password to access this site as a 'user'
    - Once you have this information, please log-in (upper-right-hand corner) and then click the "JOIN THIS P1003 PROJECT" button.

WCO Recommendation on dematerialization of supporting documents

This is a recent recommendation of the World Customs Organization.
http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/Recommendations/rec_proc_fac/rec_demat_en.pdf

If you have any questions or comments that you would like to have addressed, please send these to Lance THOMPSON at least a week before the December conference call and we can ask a WCO representative to give further details or to register any comments that experts wish to be addressed by this organization.

Date for next Conference Call

Agenda items for next conference call:

- Continue with list of ideas for the future revised recommendation
- Validation of the Annex 1 (enabling environment) in order to send this out and get appropriate feedback from governments around the world.
    - If you have any comments or suggestions for the template for submission to annex 1, please get this to Lance THOMPSON at least a week before the December conference call.

Face-to-face meeting

Such a meeting would allow progressing quicker on the elaboration of the recommendation text; but it is important that everyone still be included in the process…
Such a meeting would probably be set up around a two (full-) day meeting. The main objective would be to progress with the different ideas for the recommendation and begin integrating text.

- There was some interest on the East-Coast of the U.S. for a face-to-face meeting, perhaps in the beginning of 2013. Anyone who would be interested, please let Lance THOMPSON know before the next telephone conference call.
- There was also some interest in Europe for a face-to-face meeting, perhaps in the beginning of 2013 as well. Anyone who would be interested, please let Lance THOMPSON know before the next telephone conference call.

Recommendation 14 Part 2 content – points discussed:
Points that need to be considered:

- Chapters 1 & 2 will be discussed at a later time.
- Definitions (or descriptive texts) should be provided and these should be same or similar as other UN works.
- Chapter 4 on definition and function of signature may need to be between the introduction and chapter 2 (other options than signature) as this sets out the basis for what is discussed in chapters 2 and 3…
- It was suggested to set up smaller working groups on different points.

N°	Proposer	Date	Proposition	Action taken
DL18	M.Dadashov (LT)		Another point that has not been emphasized in the initial document yet, the the Recommendations/solutions should have been formulated in language understandable to the targeted audience, in other words we should present our solutions in a way understandable to contractual parties	Should have a glossary or definition of terms
DL19	M.Dadashov (LT)		With these in mind *[above point & technology neutrality]*, I'd suggest restructuring the "Proposed organization of received solutions" as follows: 1. El. Signature based authentication solutions 1.1. High assurance solutions 1.2. Mutually agreed solutions 1.3. Combined signature solutions (e.g. single signature contracting - joining an [unsigned] generic contract) 2. El. delivery (e-delivery) based authentication solutions 1.1. Mutually authenticated peer2peer e-delivery (no third party involved) 1.2. Third party (a trusted party) authenticated store and forward e-delivery 3. ?	To be discussed later for the organizational of Annex 2.

CHAPTER: 1. Introduction

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CHAPTER: 2. Other options than signature

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DL20	UNCITRAL		Article 7 (1): Where the law requires a signature of a person, that requirement is met in relation to a data message if: a) a method is used to identify that person and to indicate that person's approval of the information contained in the data message; and	

			b) that method is as reliable as was appropriate for the purpose for which the data message was generated or communicated, in the light of all the circumstances, including any relevant agreement. UNCITRAL Model Law on Electronic Commerce	
DL21	Rec14 1979+		Recommendation 14 recommends: a) Eliminate signature and all forms of authentication whenever possible (when not essential for the function of the document/data transmitted) b) When signature is necessary, enable electronic means of replacing the manual signature *c)* Choice of electronic solution should be proportionate to the level of security called for by the data transmitted (not everything needs to be certified) – *[not yet confirmed as part of the main recommendation]*	

CHAPTER: 3. Use of other authentication methods

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GENERALITIES

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DL22	A.Sazonov (RCC)		1. A document in electronic form, as well as a paper one, is to fulfil its legal function. 2. The discrete (electronic) nature of a document eliminates the difference between a document's original and copy. Such speculations on this topic are given in UNCITRAL Secretariat's Note A/CN.9/WG.IV/WP.115 - Legal issues relating to the use of electronic transferable records. In this document two essentially different approaches to ensuring e-document's uniqueness are considered: a. ensuring document's technical uniqueness; b. identification of an authentic copy of a document. Identification of requirements for ensuring authenticity of an e-document is difficult at the present stage due to the fact that there is no univocal understanding of the term "electronic document".	Should have shared definitions and description on existing standards. (Should be descriptive instead of definitions) • Electronic record • Electronic signature • Electronic document • Authenticity (can have various uses, see chapter 4) • Trust
			The concept of "electronic document" is one of the points at issue of the new Recommendation for Trusted trans-boundary electronic trade document exchange. After formulating the concept of "electronic document" it will be possible to identify the requirements for ensuring authenticity.	• And perhaps others
DL23	H.Putteneers (BE)		Electronic signatures, when carefully implemented, can offer a higher degree of reliability and can be used to ascertain the content of the document is authentic. However, given the multitude of methods and systems, maintenance of a verification infrastructure can be a cumbersome and costly task.	Acknowledged

TECHNOLOGY NEUTRALITY

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DL24	J.Salo (FI)		Technological neutrality is very important for the recommendation. There should be alternative options and technologies available for the authentication of the trade documents	Should be useable / practicality and must be balanced with technology neutrality. Should rely on ISO standards as per position paper proposed by Tim McGrath. Must define what we mean by neutrality. (do not promote one technology over another). Interoperability… to be addressed in Annex 2 – to be confirmed. Common understanding of semantics of info being exchanged.
DL25	M.Dadashov (LT)		It's been recognized that the Recommendations should be technologically neutral however. o fulfill this recognition the final Recommendations should have solutions/proposals structured in a technologically neutral way as well.	
DL26	J.Stoopen (NL)		Without hinting at certain or specific solutions, it might be an idea to emphasize the importance of the use of agreed (technical) standards. Especially for governments it might be more cost effective to limit themselves to one or two standards. The spin-off effect of that is that for business and public it will be easier (user friendly) and cheaper if they only have to deal with a limited number of standards	
DL27	S. Lennartsson (SE)		new rec 14 is maintained at a level such that the document works regardless of technology choice in the individual case, ie, whether paper, electronic mail, mobile technology or other similar technology-related uses. [Compare - we try to keep the law technology-neutral in Sweden.]	

ORGANIZATIONAL SUGGESTIONS

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DL28	UNCITRAL		"Electronic authentication and signature methods may be classified in three categories:	

			- those based on the knowledge of the user or the recipient (e.g. passwords, personal identification numbers (PINs)), - those based on the physical features of the user (e.g. biometrics) and - those based on the possession of an object by the user (e.g. codes or other information stored on a magnetic card). UNCITRAL, Model Law on elec.sign, part 2 §13.	
DL29	UNCITRAL		Typologies of electronic signatures: "… four main signature and authentication methods will be discussed - digital signatures - biometric methods, - passwords and hybrid methods and - scanned or typed signatures." UNCITRAL, Promoting Confidence, p.17 §24 "The digital signature has many different appearances such as - fial stop digital signatures, - blind signatures and - undeniable digital signatures." UNCITRAL, Promoting Confidence, p.18 §25.	
DL30	A.Sazonov (RCC)		The following question is to be answered: In what way a distinctive mark, characteristic, etc, that identifies a person or thing ensures for a document: a) the property of being genuine b) the ability to be verified c) the ability to be trusted The consequent speculations are to be grounded on the fact that in case of paper document a handwritten signature is made directly on a document itself and is its integral (inalienable) part. A handwritten signature on a paper document is a distinctive mark identifying a signer. And in this quality it can ensure only document's property of being genuine. In case when a handwritten signature is used the ability to be verified and the ability to be trusted are ensured by a third party, which can be: a) a competent government body – issues a passport, in which subject's handwritten signature is associated with identification characteristics thereof (name, photograph, citizenship, date of birth etc); and additionally it can be b) an organization – issues a certificate, a license or another document in which subject's name is associated with subject's powers.	Way document can be verified during whole life cycle… Archive & retrieval should be addressed in Chapter 6. UNCITRAL set up 2 types of authentication: - token system - trusted 3rd Parties

LEVELS OF SENSITIVITY

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DL31	UNCITRAL		"It is often neglected … that a very large number, if not the majority, of business communications exchanged throughout the world do not make use of any particular authentication or signature technology." (UNCITRAL, Promoting Confidence, p.30 §65) Exchanges with no form of authentication are common business practice in interest of ease, expediency and cost-effectiveness (e.g. e-mails). Must not create stringent requirements which would but in doubt the validity and enforceability of these transactions… UNCITRAL, Promoting Confidence, p.30 §66.	
DL32	UNCITRAL		Article 7 (1): Where the law requires a signature of a person, that requirement is met in relation to a data message if: a) a method is used to identify that person and to indicate that person's approval of the information contained in the data message; and b) that method is as reliable as was appropriate for the purpose for which the data message was generated or communicated, in the light of all the circumstances, including any relevant agreement. UNCITRAL Model Law on Electronic Commerce "…more appropriate to graduate security requirements in steps similar to the degrees of legal security encountered in the paper world." UNCITRAL, Promoting confidence, p.40 §90. "…not all applications may require a security level comparable with that provided by certain specified techniques, such as digital signature." UNCITRAL, Promoting confidence, p.40 §91	
DL33	J.Salo (FI)		The revision of recommendation 14 aims to ease the authentication of the trade documents. The objective is that other means than signature will also be available.	Should avoid suggesting complete elimination of

			Starting point would be the signature is not mainly required for the trade documentation. To achieve these objectives, conditions and requirements for the other means than signature should not be too strict	signature out of context.
DL34	J.Salo (FI)		Discussions about the security assurance levels diminish the technological neutrality of the recommendation. Security assurance levels would have an impact for the number of the acceptable other options than signature. UNCITRAL does not define the security assurance levels	Technology neutrality must be kept in mind when speaking of levels of sensibility – if this is terminology retained.
DL35	C.vanderValk (SE)		Security levels (examples of today's environment) - lowest for processes and transactions that have no significant value and/or that are not legally critical - Secured transparent – secured by one party to allow the other to perform operations in an environment the first party secures (ID+Password, purchases in secure networks [https, PKI signature ensured by the first party only with no sharing of keys…], etc.) - "soft" public keys – third party issued PKI keys that can be stored on user's computer or on that party's service provider system (which is then accessed by the party usually using ID+Password) - Highest level – reversal of burden of proof, credentials typically stored on hardware devices (smartcard, USB key, etc.)	Continuum or spectrum. Solution needs to allow for risk-assessment & practical implementation. – parameters and guidelines that everyone can use. If we go into too much detail of the different levels, it will need to become technical (and may go against technology neutrality). Could use the idea of the context in which it should be used (context of the document)…
	G.Galler (EU)		It is more a continuum more than levels. (Galler – EU) What is present in the lowest level e-signature is present also in qualified. It is more security assurance levels. All electronic signatures are equivalent to a hand-written signature.	
	J.Baiamonte (US)		Legacy systems have resulted in different technology levels. In the US as well, it is considered a continuum. (J. Baiamonte, US)	
	A.Caccia (IT)		LEVEL OF SECURITY + LEVEL OF INTEROPERABILITY = technology to be used. (A CACCIA [IT])	
DL97	SP.Sahu (WCO)		Are we assuming that there is a signed document/contract between the parties for electronic authentication? (SP, WCO)	
DL98	JM.Kaliszewski (CH)		3 elements which constitute ways to exchange electronic document (JM IATA): - Authenticate - Authentic copies - Mutual agreements	

Proposed – to be validated at the December Conference Call. If you have any comments or suggestions, please submit these at least a week before the December Conference Call.

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

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)