

# UNCITRAL Colloquium on Electronic Commerce

## Single Window Legalities:

A Legal Framework View along the Path to  
Paperless Global Trade Development

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# **DISCLAIMER**

**Please note that all views  
presented or discussed are  
personal and do not necessarily  
reflect the views or positions of  
any organization.**

# Who Wants a Single Window?

- Everybody!
- Why?
- *Implementation?*
- National, Regional, and International Legal Frameworks

# **Single Window Development**

- **Customs New Role in Trade Facilitation**
- **International Trade Development**
- **SMEs in Cross-Border e-Trading**
- **Global Supply Chain Interests**

# Single Window Development /2

- **International recognition of the importance of the legal infrastructure of the Single Window for International Trade.**
- **Who is in the “game”? International Level:**
  - UNCITRAL
  - UNCTAD
  - UN/CEFACT
  - UNESCAP
  - UNECA
  - World Customs Organization (WCO)

# Single Window Development /3

- **Who is in the “game”? Regional Level:**
  - Association of South East Asian Nations (ASEAN)
  - Asia-Pacific Economic Cooperation
  - South Eastern Europe
  - EurAsian Economic Community (EurAsEC)
  - The European Union
  - South African Development Community (SADC)
  - Southern Common Market (MERCOSUR)
  - and others
- **Who is in the “game”? Country Initiatives:**
  - Singapore
  - Korea
  - Senegal
  - United States
  - Japan

# UN/CEFACT Recommendations

- Recommendation 33 - *Recommendation and Guidelines on Establishing a Single Window to Enhance the Efficient Exchange of Information between Trade and Government (2005)*
- Recommendation 35 - *Establishing a Legal Framework for International Trade Single Window (October 2010)*

# **UN/CEFACT Recommendation 35**

- **Annex II: Checklist Guidelines**
  1. **Legal basis for implementing a Single Window facility**
  2. **SW facility structure and organization**
  3. **Data Protection**
  4. **Authority to access and share data between government agencies**
  5. **Identification, authentication, and authorization**

[Source: UN Recommendation 35]

# **UN/CEFACT Recommendation 35 /2**

- 6. Data quality issues**
- 7. Liability issues (obligations and responsibility)**
- 8. Arbitration and dispute resolution**
- 9. Electronic documents**
- 10. Electronic archiving**
- 11. Intellectual property rights and database ownership**
- 12. Competition**

**[Source: UN Recommendation 35]**

# **World Customs Organization**

- **177 Member-States**
  - Convention Establishing a Customs Co-operation Council (1952)
- **Numerous International Texts**
  - Revised Kyoto Convention
  - Johannesburg Convention
- **WCO's international role in assisting Customs Administrations**
- **Customs in the 21<sup>st</sup> Century (C21)**
  - Globally Networked Customs (GNC)

# WCO-UNCITRAL Joint Legal Task Force in Coordinated Border Management (JLTF)

- **Goal:** *Develop a High-Level Reference Document on the Legal Issues for the International Single Window in Coordinated Border Management*
- In addition to governments, wide participation with other international organizations

# WCO-UNCITRAL Joint Legal Task Force

- **Preliminary Set of Legal Issues:**

- Creating a legally enabling environment at the domestic level (i.e., enabling legislation);
- Authorization to exchange and share information (in data messages) between government agencies both nationally and internationally;
- Authorization to access to information by other agencies and governments;
- **Identity management;**
- Privacy and confidentiality requirements in the areas of personally identifiable information and trade and competitive data;

[Source: JLTF Meeting – February 2010]

# WCO-UNCITRAL Joint Legal Task Force /2

- Legal validity and authentication of documents exchanged in electronic form;
- **Electronic and digital signatures;**
- **Cross-border authentication and mutual recognition;**
- Data protection and information security;
- Data collection, sharing, amendment, deletion, accessibility, retention and archiving;
- Risk management considerations (especially for OGA's/PGA's);
- Liability issues related the operation of Single Window facilities (including domestic and cross-border MOUs, interconnection security agreements, service level agreements, end-user agreements, disclaimers etc.);

[Source: JLTF Meeting – February 2010]

# WCO-UNCITRAL Joint Legal Task Force /3

- **Transferable records including, e.g., electronic transport records (negotiable and non-negotiable) and electronic registries;**
- **Intellectual property rights issues;**
- **The implications of international standards, including data and the normative definitions prescribed in legislation that might need to be altered by agencies;**
- **Ensuring that enforcement actions can still be carried out, for example, through possible implications on the laws of evidence and jurisdiction over individuals;**

# **WCO-UNCITRAL Joint Legal Task Force /4**

- Data ownership (including national Government interests);**
- The extent to which the revised Kyoto Convention (and other WCO instruments including the SAFE Framework) might be adjusted owing to the legal implications of the Single Window;**
- The impact of “click-through” agreements, online help facilities and other possible Single Window services;**
- Considerations related to government duties, taxes and fees collection/distribution and refunds;**
- Integrated risk assessment;**
- The legal implications of different technical architectural options for Single Window facilities.**

**[Source: JLTF Meeting – February 2010]**

# **A Few Concluding Comments/Recommendations**

- **Importance of UNCITRAL's Leadership and Work in Single Window-Related Legal Areas**
  - **Given the number of organizations working on the Single Window, including its legal aspects, what is the likelihood that inconsistent legal standards may emerge that will raise barriers to trade if UNCITRAL does not engage?**
  - **UNCITRAL Texts and Guidance Documents Provide the *basic underlying Legal Infrastructure* for the Electronic Single Window**

# **A Few Concluding Comments/Recommendations /2**

- **Work on E-Transferability, Identity Management, and other areas will not only enhance the Single Window's potential for paperless/borderless trade, but also may create an even stronger enabling environment for other UNCITRAL texts.**
- **Working Group IV guidance on the work of the WCO-UNCITRAL JLTF will help assure consistency with:**
  - **Electronic Communications Convention**
  - **The Rotterdam Rules**
  - **Electronic Commerce Model Laws**
  - **Guidance Documents (e.g., *Promoting Confidence in Electronic Commerce*)**

**Single Window Legalities:**

**The Adventure Continues!**

***Thank you***

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