

*Challenges and Opportunities :*  
A Regional Agreement on  
Electronic Exchange of Trade Data &  
Documents

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# Overview

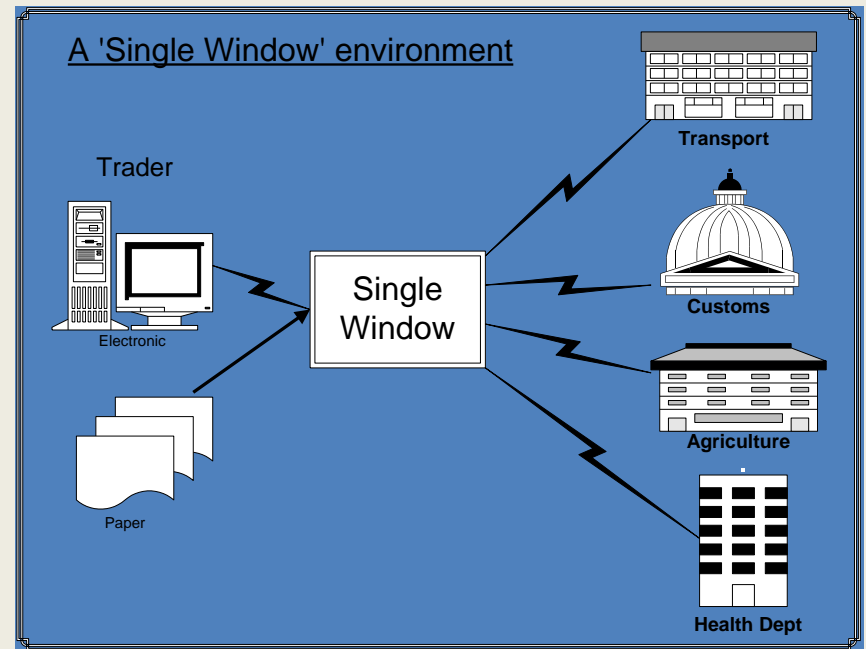
- Introduction
  - Need to create legally enabling conditions for an International Trade Single Window
- Stocktaking
  - International, regional and national initiatives
- Prospective
  - Analytical study of key issues
  - Principles and proposal for a regional agreement

# Trade Booming in AP

- Asia-Pacific region see a strong growth after global recession and will remain as the fastest growing region of the world.
- There is a strong need to reduce regional trade transaction costs through domestic reform and international cooperation.
- Single window serves the goals of reduction of trade transaction costs.

# Single Window in Need

- Single window is trade facilitation.
  - Simplification, harmonization and standardization
- Benefits for government and trade
  - Faster processes, clearance and release ;
  - Reduced costs of compliance;
  - Reduced corruption;
  - Reduction in bureaucratic processes;
  - Better collection of government revenues;
  - Improved trader compliance;
  - risk management techniques for control and enforcement purposes
  - Predictable application and explanation of rules.



# Legal Environment

- Single Window facilities can simplify and make more efficient and effective the data submission process for import and export operations.
- Single window allows for the sharing of information amongst government agencies in respect of international trade transactions.
- Creating legally enabling conditions for an International Trade Single Window constitutes one of the main challenges for the countries establishing such a national facility and/or seeking to exchange information with foreign Single Windows.

# Stocktaking

- Leading International Organizations
  - UN Centre for Trade Facilitation and Electronic Business (UN/CEFACT)
  - World Customs Organization (WCO)
  - United Nations Commission on International Trade Law (UNCITRAL)
- Regional Developments
  - ASEAN, APEC, PAA
  - EurAsEC (CIS Countries Customs Union), European Commission
- Industry Groups
  - ICC

# UNESCAP

- Assisting Member States to identify constraints and needs, develop and implement strategies and action plans;
- Promoting the adoption of global standards and solutions;
- Providing a regional platform for information and experience sharing by involving all stakeholders –public and private, policy makers and experts through:
  - **UNNExT**
  - Knowledge dissemination, information and experience sharing – Regional Forum on Trade Facilitation
  - Capacity building activities and advisor service –UNDA 5th Project, UNDA 6thProject.....
  - Analytical work and development of implementation guidelines – ARTNeT, Business Process Analysis Guidelines.....
  - Coordination and cooperation with other international & regional organizations, such as UNECE, WCO, ADB.

# APEC

- Single Window Strategic Plan 2007
  - APEC Sub-Committee on Customs Procedures (SCCP) working towards the implementation of Single Window within APEC Economies
  - This will provide a framework to support the development of national Single Windows drawing from current Single Window initiatives, experience and supporting standards.
  - it is envisaged that international interoperability can be achieved within the APEC region.

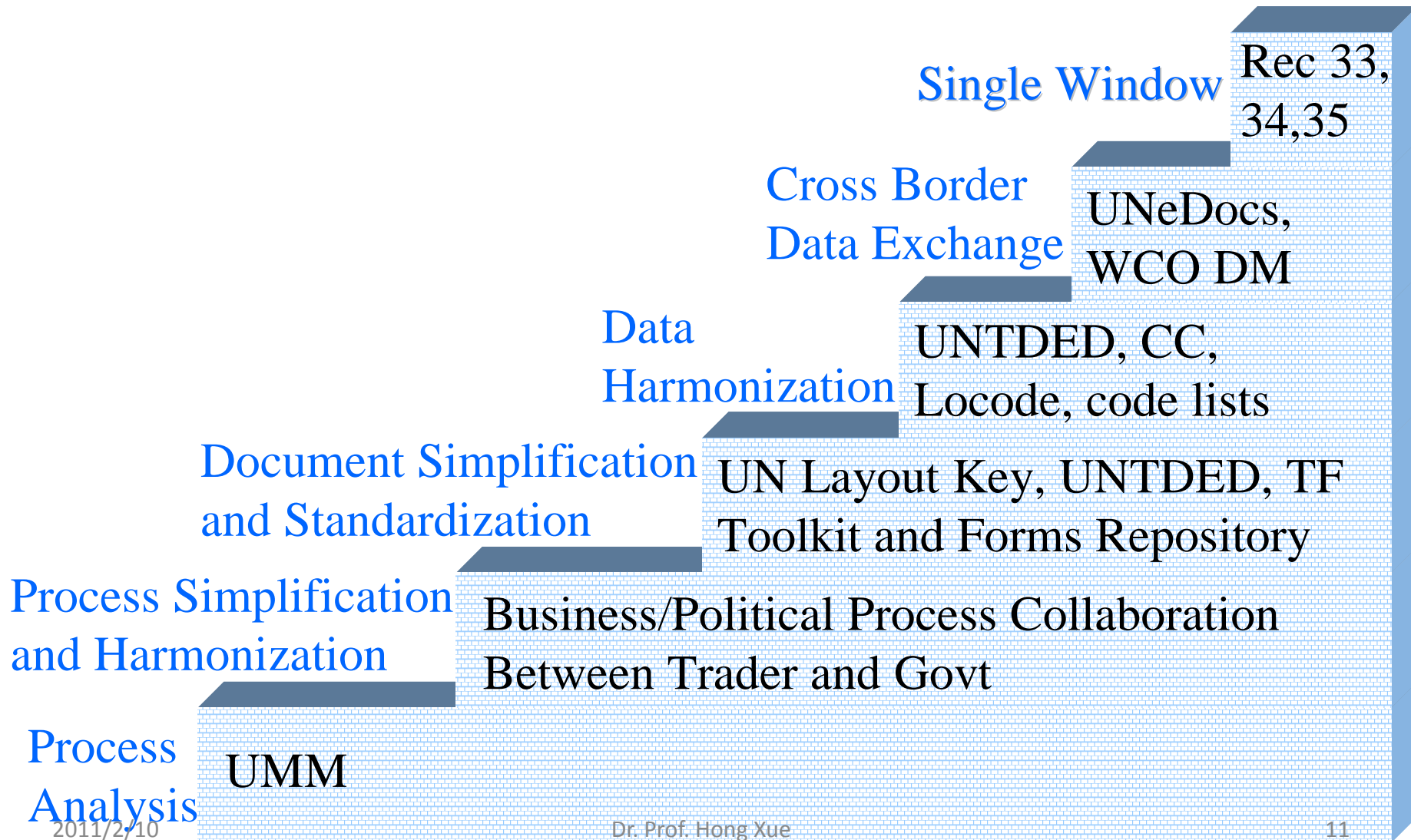
# ASEAN

- Single window initiative
- Agreement to Establish and Implement the ASEAN Single Window (Kuala Lumpur, 9 December 2005)
  - The ASEAN Single Window is the environment where National Single Windows of Member Countries operate and integrate.
  - The agreement provides a legal framework to establish and implement the ASEAN Single Window and strengthens the coordination and partnership among ASEAN Customs Administrations and relevant line ministries and agencies, and economic operators to effectively and efficiently implement the ASEAN Single Window.

# Pan-Asian E-Commerce Alliance

- Secure Cross-border Transaction Services
  - With the PAA cross-border transaction service, exchange of such documents can be conducted electronically across border over a secure infrastructure, and with more ease and efficiency.
- Mutual Recognition of Public Key Infrastructure (PKI)
  - A PAA Certificate Authority has been commissioned as a framework for the mutual recognition of PKI.
  - PAA has established a certificate policy authority – the Pan Asian Certificate Policy Authority (“PAA Policy Authority”) - to govern and oversee the usage of digital certificate for all electronic transactions among the PAA members.
- Cargo Tracking Service

# STEP BY STEP PROCESS



# Legally Enabling SW

- Creating a legally enabling environment at the domestic level (legal basis)
  - Organizational structure for the establishment and operation of a single window facility
  - Legal implications on different technical architectural options for Single Window facilities
- Implications of international standards, including data and the normative definitions prescribed in legislation that might need to be altered by agencies
  - Adjustment of international treaties owing to the legal implications of the Single Window
    - E.g. the extent to which the revised Kyoto Convention (and other WCO instruments including the SAFE Framework) might be adjusted

# Identifying Key Legal Areas

- Data administration (collection, sharing, amendment, deletion, accessibility, retention and archiving)
- Privacy and confidence
  - Identity management
  - Personal data
  - Confidential information in trade and competitive data
- Intellectual property and database ownership
- Competition issues
- Electronic data and communication
- Liability, law enforcement and dispute resolution

# Prospective of a Regional Agreement

- Complexity of issues to address in cross-border e-exchange of trade data and document
  - Cross-border electronic communications in trade (B2B, B2G)
  - Trade facilitation and e-single window (data collection, sharing, access and archiving)
  - Privacy, confidence and IPRs in cross-border data flow
  - Liability, law enforcement and dispute resolution

# Prospective of a Regional Agreement

- Difficulties confronted
  - Beginning stage of AP regional economic integration
  - No region-wide legislative and judicial body
  - Lack of region-wide rules on privacy and cross-border data flow
  - Prerequisite of national Single Window?

# Prospective of a Regional Agreement

- Models to choose
  - Lightweight Agreement for commitment to cross-border e-communication and trade facilitation (SW)
  - Full Agreement to harmonize e-communication and trade facilitation across the region
    - E.g. setting up a regional single window facility; harmonization to be implemented in the member states
  - Midway Agreement for regional cooperation and legal interoperability

# Principal Proposals (1)

- Incorporating existing international standards and best practices
  - ‘Non-discrimination’ principle between paper and electronic documents or messages and ‘technology neutrality’
  - Mutual recognition of electronic documents and data messages in trade
  - cross-border authentication and mutual recognition of e-signature

# Principal Proposals (2)

- Removing formal and procedural barriers for legal interoperability
  - National legal requirements on data collection, sharing, access, archiving and submission to governmental agencies should serve the purpose of trade facilitation and single window

# Principal Proposals (3)

- Complying with legal requirements of cross-border data flow, intellectual property protection and market competition
  - Consideration should be given to bilateral, and possible multilateral agreements, to meet the needs of both domestic and regional legislation and regulation on privacy, (commercial/national) confidential information and IPRs.
  - Consideration should be given to how and under what circumstances access to data provided to a single window should be authorized both nationally and with other country, regional or international single windows.

# Principal Proposals (4)

- Regionally cooperating in law enforcement and dispute resolution
  - Considerations must be taken into account in cross-border transactions to insure that electronic documents and data messages are admissible in judicial proceedings in foreign jurisdictions as well as being admissible in domestic proceedings
  - Addressing the issues of jurisdiction over parties transacting business through the national single window of two or more countries as well as choice of law in a dispute or in a criminal or enforcement matter

# Conclusion

- An Agreement on e-exchange of trade data and document is needed to promote trade facilitation, particularly single window, in AP region.
- Given the diversity of the region and complexity of the issue, the region may adopt gradual approach to proceed to the Agreement gradually and strategically.

THANK YOU!  
See You in Beijing!