# Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific

Update (December 2020)





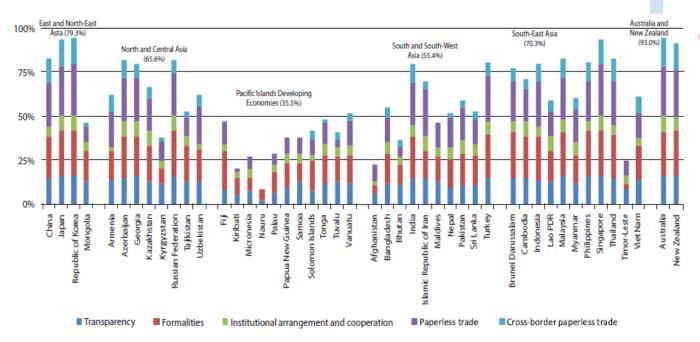
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### 1. Background and Overview

## Overall Implementation of Trade Facilitation Measures (46 Asia-Pacific countries)



Source: UN Global Survey on Digital and Sustainable Trade Facilitation 2019, available at untfsurvey.org

#### Paperless Trade (Trade Digitalization)?

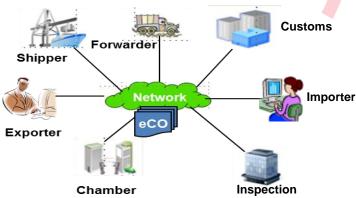
#### Paperless Trade

Conduct of trade activities on the basis of electronic rather than paper documents e.g., electronic Customs declaration, electronic cert. of origin (application of e-commerce to international trade domain)

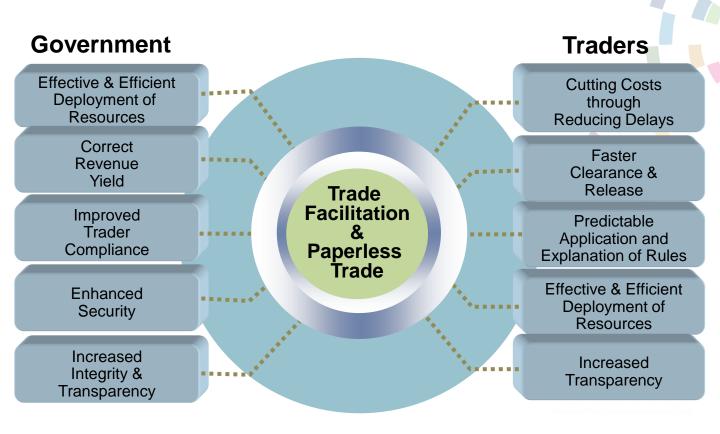
#### Paperless Trade Systems

Legal/regulatory and technical frameworks in which paperless trade transactions take place e.g., Digital customs system, electronic Single Window facility, e-port management systems, Framework Act on Electronic Transaction

(in Republic of Korea)



#### **Benefits of Trade Facilitation & Paperless Trade**



## **Challenges to Moving forward** on Cross-border Paperless Trade



## Framework Agreement on the Facilitation of Cross-Border Paperless Trade in Asia and the Pacific (CPTA)

#### □ A UN Treaty

- ✓ Open to interested (53) ESCAP member states (voluntary) to become parties
- ✓ Enabling and action-oriented agreement

#### □ Objective

- ✓ To <u>facilitate</u> cross-border paperless trade (data exchange) among willing ESCAP member states by providing a dedicated intergovernmental framework to develop legal and technical solutions
- Complementary to the WTO Trade Facilitation Agreement (TFA) as well as (sub)regional efforts

#### **CPTA: Milestones in Progress**

- □ 4-year step-by-step development process
  - ✓ Over 30 countries directly involved in finalizing the treaty text in March 2016, including adopting ESCAP resolutions 68/3 and 70/6
- □ Adopted by the Commission as a UN treaty (resolution 72/4) in May 2016
- ☐ The CPTA enters into force on **20 February 2021**.



#### **CPTA: Current Status**

- ☐ Five countries ratified/acceded (as of November 2020)
  - ✓ Azerbaijan, Bangladesh, China, Islamic Rep. of Iran, the Philippines
- ☐ Signed: Armenia and Cambodia
- ☐ Several countries undergoing domestic accession processes
- ☐ Implementation plan on the way
  - ✓ Draft road map for implementation
  - ✓ Legal and Technical Readiness checklists

### 2. Overview of Provisions

#### **CPTA: Contents**

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Articles 1 to 16: Substantive clauses

Article 1: Objective

Article 2: Scope

Article 3: Definitions

Article 4: Interpretation

Article 5: General principles

Article 6: National Policy Framework, Enabling Domestic Legal Environment and

Paperless Trade Committee

Article 7: Facilitation of Cross-border Paperless Trade and Development of national

Single Window(s)

Article 8: Cross-border Mutual Recognition of Trade-related Data and Documents in

Electronic Form

Article 9: International Standards for Exchange of Trade-related Data and Documents in

Electronic Form

Article 10: Relation with Other Legal Instruments Enabling Cross-Border Paperless Trade

Article 11: Institutional Arrangements

Article 12: Action Plan

Article 13: Pilot Projects and Sharing of Lessons Learned

Article 14: Capacity Building

Article 15: Implementation of the present Framework Agreement

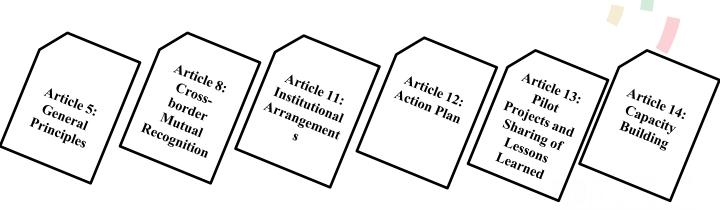
Article 16: Other agreements in force

Articles 17 to 25: Final clauses

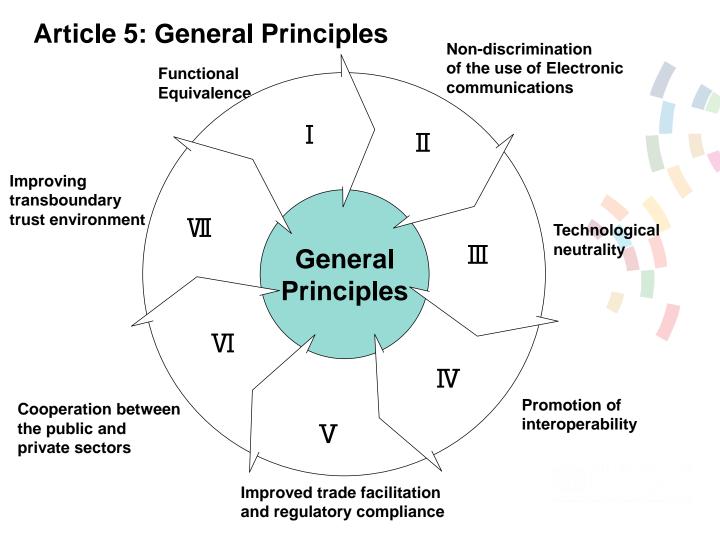
#### **Overview of Provisions: Key Provisions**

#### **Article 1: Objective**

The objective of the present Framework Agreement is **to promote cross-border paperless trade** by enabling the exchange and mutual recognition of trade-related data and documents in electronic form and facilitating interoperability among national and subregional single windows and/or other paperless trade systems, for the purpose of **making international trade transactions more efficient and transparent while improving regulatory compliance**.



http://www.unescap.org/resources/framework-agreement-facilitation-cross-border-paperless-trade-asia-and-pacific



#### Overview of Provisions: Cross-border mutual recognition

### Article 8: Cross-border mutual recognition of trade-related data and documents in electronic form

- 1. The Parties shall provide for mutual recognition of trade-related data and documents in electronic form originating from other Parties on the basis of a substantially equivalent level of reliability.
- 2. The substantially equivalent level of reliability would be <u>mutually</u> <u>agreed upon among the Parties through the institutional arrangement</u> established under the present Framework Agreement.
- 3. The Parties <u>may enter into bilateral and multilateral arrangements to operationalize cross-border mutual recognition</u> of trade-related data and documents in electronic form, in a manner consistent with the principle of the transboundary trust environment and all the other general principles, provided that the provisions of these bilateral and multilateral arrangements do not contradict the present Framework Agreement.

#### Overview of Provisions: Institutional arrangements

#### **Article 11: Institutional arrangements**

- 1. The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) shall, for the purposes of the present Framework Agreement, establish a paperless trade council comprising one (1) high-level nominee from each Party. The Council shall meet upon request but at least once a year.
- 2. In the performance of its functions, the Paperless Trade Council shall be <u>supported by a standing committee</u>, which shall supervise and coordinate the implementation of the present Framework Agreement and submit its recommendations to the Council for review. The Standing Committee shall be composed of senior representatives of each Party and will meet at least once a year.
- 3. For the purposes of implementing the present Framework Agreement, the Standing Committee <u>may establish working groups</u> which shall report to the Standing Committee on the implementation of the related action plan under the present Framework Agreement.

#### Overview of Provisions: Institutional arrangements (Cont'd)

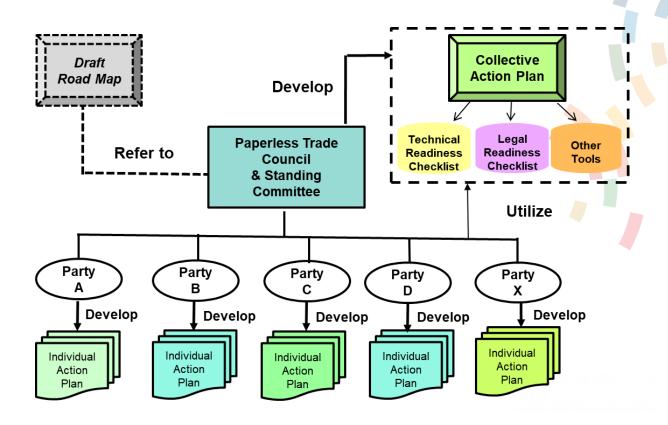
- 4. The <u>ESCAP secretariat shall be designated the secretariat of the present Framework Agreement</u> and shall also be the secretariat of the bodies established under the present Framework Agreement. It shall provide support in coordinating, reviewing and supervising the implementation of the present Framework Agreement and in all related matters.
- 5. The Council shall, by a two-thirds majority vote, adopt such rules of procedure as may be required for the performance of its functions, including for the Standing Committee and the Working Groups. Except as otherwise provided for in the present Framework Agreement, decisions by the Council shall be taken by a majority of votes cast by members present and voting, provided that at least two thirds of the participating States are present.
- 6. The Council and the Standing Committee may, under their competence determined in the rules of procedure, <u>adopt protocols on specific legal</u>, <u>technical and organizational matters</u>. The requirements for entry into force of any protocol shall be established in that instrument.

#### Overview of Provisions: Action plan

#### **Article 12: Action plan**

- 1. The Standing Committee, under the supervision of the Paperless Trade Council, shall develop a comprehensive action plan, which shall include all concrete actions and measures with clear targets and implementation timelines necessary for creating a consistent, transparent and predictable environment for the implementation of the present Framework Agreement, including the implementation schedules of the respective Parties. The Parties
- shall implement the action plan in accordance with the schedule, and the implementation status of each Party shall be reported to the Standing Committee.
- 2. The implementation schedule for each Party shall be <u>developed as part</u> of the action plan based on a self-assessment of their readiness.

#### **Draft Road Map to Action Plan (Illustrative)**



#### **Overview of Provisions:**

Pilot projects and sharing of lessons learned

#### Article 13: Pilot projects and sharing of lessons learned

- 1. The Parties shall endeavor to <u>initiate and launch pilot projects</u> on cross-border exchange of trade-related data and documents in electronic form, among customs and other regulatory agencies. The Parties shall <u>collaborate on such pilot projects through the institutional arrangements</u> established under the present Framework Agreement.
- 2. The Parties shall report to the Standing Committee on the progress of pilot projects to <u>facilitate the sharing of experience and lessons learned and to establish a collection of best practices for interoperability of cross-border exchange of trade-related data and documents in electronic form. The exchange of experience and lessons learned <u>would extend beyond the Parties to the present Framework Agreement</u>, to the extent possible and as appropriate, <u>in an effort to promote paperless trade implementation throughout the region and beyond</u>.</u>

#### Overview of Provisions: Capacity building

#### **Article 14: Capacity-building**

- 1. The Parties may cooperate to provide technical support and assistance to each other in order to facilitate the implementation of the present Framework Agreement.
- 2. The Parties may collaborate on capacity-building through the institutional arrangements established under the present Framework Agreement.
- 3. The Parties shall give special consideration to requests from least developed and landlocked developing countries for technical assistance and cooperation arrangements designed to assist them in developing their paperless trade capacity and in taking full advantage of the potential benefits of the present Framework Agreement.
- 4. The Parties <u>may invite development partners for more effective</u> <u>technical and financial assistance</u> in the implementation of the present Framework Agreement.

#### **Overview of Provisions:**

Provisions for promoting cross-border interoperability

### Article 9 International standards for exchange of trade-related data and documents in electronic form

- 1. The Parties <u>shall endeavor</u> to apply international standards and guidelines in order to ensure interoperability in paperless trade and to develop safe, secure and reliable means of communication for the exchange of data.
- 2. The Parties shall endeavor to become involved in the development of international standards and best practices related to cross-border paperless trade.

### Article 10 Relation to other legal instruments enabling cross-border paperless trade

- 1. The Parties <u>may</u>, where appropriate, adopt relevant international legal instruments concluded by United Nations bodies and other international organizations.
- 2. The Parties <u>shall endeavor</u> to ensure that the cross-border exchange of traderelated data and documents in electronic form is consistent with international law as well as regional and international regulations and best practices, as identified by the institutional arrangements established under the present Framework Agreement.

#### **Overview of Provisions:**

Provision on improving domestic paperless trade environment

## Article 6: National policy framework, enabling domestic legal environment and paperless trade committee

- 1. The Parties <u>shall endeavor</u> to establish a national policy framework for paperless trade, which may define targets and implementation strategies and allocate resources, and a legislative framework.
- 2. The Parties <u>shall endeavor</u> to create an enabling national legislation on paperless trade, addressing the functions of the national operators for cross-border paperless trade, taking into consideration international standards and best practices, if applicable.

## Overview of Provisions: Provision on improving domestic paperless trade environment (Cont'd)

3. The Parties <u>may establish a national committee</u>, comprising relevant representatives of government and private sector parties, in accordance with their domestic environment. The committee will promote a legally enabling domestic environment for exchange of trade-related data and documents in electronic form as well as facilitate interoperability of cross-border paperless trade. The Parties may alternatively rely on a similar body already functioning domestically in lieu of establishing a separate committee and may designate that body, or an appropriate organizational unit or working group within it, as the national committee for the purpose of the present Framework Agreement.

#### Overview of Provisions: Provision on Single Window

### Article 7: Facilitation of cross-border paperless trade and development of single-window systems

- 1. The Parties <u>shall endeavor</u> to facilitate cross-border paperless trade by enabling exchange of trade-related data and documents in electronic form, utilizing the existing systems in operation or creating new systems.
- 2. The Parties <u>are encouraged</u> to <u>develop single-window systems</u> and use them for cross-border paperless trade. In developing single-window systems or upgrading existing ones, the Parties are encouraged to make them consistent with the general principles provided in the present Framework Agreement.

#### Overview of Provisions: Other provisions

#### **Article 15: Implementation of the present Framework Agreement**

Each Party <u>shall endeavor</u> to implement the provisions of the present Framework Agreement by creating a legally enabling environment and developing the necessary technical infrastructure to facilitate the cross-border exchange of trade-related data and documents in electronic form. The Parties recognize that least developed and landlocked developing countries may need technical and financial assistance to develop technical infrastructure and to create a legally enabling environment, which are essential for facilitating the cross-border exchange of trade-related data and documents in electronic form.

#### **Article 16: Other agreements in force**

The present Framework Agreement or any action taken under it shall not affect the rights and obligations of the Parties under any existing agreements or international conventions to which they are also parties.

### 3. Benefits and Implications

#### **Benefits of Cross-Border Paperless Trade**

#### Estimating the Benefits of Cross-Border Paperless Trade



Date:	Tuesday, June 24, 2014
Type:	Books

#### DOWNLOAD:

Benefits of Cross-Border Paperless Trade

#### ABSTRACT

This report estimates the possible economic benefits—export gains, and cost savings—from partial or full implementation of cross-border paperless trade facilitation measures. Simulation results suggest that cross-border paperless trade has significant potential to reduce trade costs and boost trade in the Asia-Pacific region. Moreover, there is every reason to believe that these are low-end estimates of the possible economic gains from reform, due to the way in which the simulations are set up on a technical level, and the fact that they focus on implementation of cross-border measures only. In reality, paperless trade is typically implemented on a broader basis, which would tend to increase the level of export gains and cost savings reported here.

Annual regional export gains: \$36 bn (for partial implementation) to \$257 bn (full

implementation)

Export time reduction: 24% to 44% Export cost reduction: 17% to 31%

Total direct cost savings across all trade: \$1bn to \$7bn annually

Source: http://www.unescap.org/resources/estimating-benefits-cross-border-paperless-trade

## Overall Average Impact on Trade Costs of Different TF Implementation Scenarios

Asia and Pacific	WTO TFA (binding only)		WTO TFA (binding + non binding)		WTO TFA+ (binding + non binding + other paperless and cross-border paperless trade)	
	Partially implemented	Fully implemented	Partially implemented	Fully implemented	Partially implemented	Fully implemented
Model 1						
Overall TFI	-2.70%	-5.74%	-4.64%	-9.45%	-10.37%	-16.37%
Model 3						
Transparency	-0.81%	-1.74%	-1.29%	-3.27%	-1.29%	-3.27%
Formalities	-1.67%	-2.93%	-2.26%	-4.00%	-2.26%	-4.00%
Institution	-0.41%	-1.35%	-0.41%	-1.35%	-1.37%	-2.44%
Paperless and cross- border paperless	=	5	-1.39%	-2.24%	-6.73%	-9.26%

TFI = trade facilitation implementation. WTO TFA = World Trade Organization Trade Facilitation Agreement.

Note: See appendix for nature and relationships between selected trade facilitation measures considered and the WTO TFA provisions Source: ESCAP calculations using data from sources identified in Table 5.

**Source**: ADB-ESCAP <a href="https://www.unescap.org/resources/trade-facilitation-and-better-connectivity-inclusive-asia-and-pacific">https://www.unescap.org/resources/trade-facilitation-and-better-connectivity-inclusive-asia-and-pacific</a>

#### **CPTA: General Benefits**

Region-wide multilateral intergovernmental platform
Builds upon existing bilateral/sub regional initiatives; Supports WTO TFA implementation Forster harmonization and minimize necessity for numerous bilateral/sub regional intergovernmental approach;
Strong capacity building programme
Inclusive initiative, open to Asia-Pacific countries at all levels of development; Strong emphasis on knowledge sharing and CB/TA among parties
Pilot projects
Allow parties to adjust their systems before engaging in actual cross-border trade data exchange
Action Plan
Allow parties with different implementation level to set actions based on their respective readiness
Mutual recognition
Commit to the goal, while allowing flexibility in how to materialize the goal

## CPTA: Contribution in the Context of WTO TFA Implementation

The CPTA complements WTO TFA and helps implementation of several provisions of the WTO TFA in an efficient and value-added manner with its ICT-based implementation approach (paperless trade).

#### WTO TFA Provisions supported by the CPTA

ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

ARTICLE 8: BORDER AGENCY COOPERATION

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND

**TRANSIT** 

ARTICLE 11: FREEDOM OF TRANSIT

ARTICLE 12: CUSTOMS COOPERATION





**TFAF** 

Assistance

National

contact points



Media and

Resources



About

the Facility



The Trade

**Facilitation Agreement** 

cross-border e-commerce."

"It is expected to provide countries of Asia and the Pacific with a new tool and "digital" complement for better implementation of the WTO Trade Facilitation Agreement (TFA) and the development of

Notification & Ratification

Donors &

Organizations

## New UN treaty to facilitate paperless trade in Asia and the Pacific to support Trade Facilitation Agreement implementation

01.10.2016

A new UN treaty, entitled Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific, will open for signature on 1 October 2016. It is expected to provide countries of Asia and the Pacific with a new tool and "digital" complement for better implementation of the WTO Trade Facilitation

Agreement (TFA) and the development of cross-border e-commerce. Grounded on a common set of general principles and a dedicated intergovernmental platform, the regional treaty will provide Parties with enhanced opportunities to exchange and harmonize practices, build each other's capacity, and multilaterally develop, adopt and implement more specific and detailed technical and/or legal protocols needed to achieve safe and secure cross-border paperless trade. Implementation will build upon existing international standards as well as on-going bilateral and subregional initiatives, such as the ASEAN

Single Window.

In May 2012, Member States of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) adopted a Resolution on Enabling Paperless Trade and the Cross-border Recognition of Electronic Data and Documents for Inclusive and Sustainable Intraregional Trade Facilitation. In May 2016, after four years of consultations and negotiations, the text of a new UN treaty to facilitate cross-border paperless trade in Asia and the Pacific was adopted. Participation

## CPTA can also contribute to WTO negotiation on e-commerce: WTO Joint Statement on Electronic Commerce



#### **CPTA Commitment Implications**

#### Implementation of substantive provisions

- · Most provisions are best endeavor
- Implementation is self-phased, based on assessment of national readiness
- Implementation support is possible from other parties and the secretariat through capacity building mechanism
- Focal office can handle multiple related matters, not only implementation of CPTA

#### **Budget implication: Mainly for participation in related meetings**

- Paperless Trade Council
- Standing Committee
- Working Groups

#### **Potential Advantages**

Helps/facilitates societies to transition into knowledge-based economy with wide application of information and communication technologies (ICTs) in international trade transactions Network effects to also stimulate other related sectors (like logistics and other service industries) to move into knowledge-based economy Improved transparency, safety and security in international trade transactions Improved trade efficiency and competitiveness (lower cost and less time) Chance for enhancement of human capacity with capacity building opportunities (trainings, workshop, knowledge-sharing, pilot projects, etc.) More chance to get support from development partners in developing hard and soft infrastructure for international trade transactions Improvement of external image and recognition from other countries

## Social, Economic, Cultural, Environmental and Political implications

- Social implication: facilitate transition into knowledge-based society through improved application of information and communication technologies (ICTs), including infrastructure and services
- ☐ Economic implication: Less time and cost for trade transactions, resulting in improved trade efficiency, higher government revenue from higher regulatory compliance, reduced trade mis invoicing and associated illicit financial flows
- Cultural implication: No implication
- Environment implication: reduction of use of papers, resulting in improved environmental protection
- Political implication: No implication

### 4. Procedure for Becoming a Party

#### Procedure for Becoming a Party: Provision in the CPTA

#### **Article 18:** Procedure for signing and becoming a Party

- 1. The present Framework Agreement shall be open for signature by ESCAP member States at United Nations Headquarters in New York from 1 October 2016 to 30 September 2017.
- 2. ESCAP member States may become Parties to the present Framework Agreement by:
- (a) Signature, followed by ratification, acceptance or approval; or
- (b) Accession.
- 3. Ratification, acceptance, approval or accession shall be affected by the deposit of an instrument with the Secretary-General of the United Nations.

#### Procedure for Becoming a Party: Accession

- A State may generally express its consent to be bound by a treaty by depositing an instrument of accession with the depositary (see article 15 of the Vienna Convention 1969).
- Accession has the <u>same legal effect</u> as ratification, acceptance or approval. However, unlike ratification, acceptance or approval, which are preceded by signature to create binding legal obligations under international law, <u>accession requires only one step</u>, namely, the deposit of an instrument of accession.

## Procedure for Becoming a Party: Model instrument of accession

#### ACCESSION

WHEREAS the [title of treaty, convention, agreement, etc.] was [concluded, adopted, opened for signature, etc.] at [place] on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above-mentioned [treaty, convention, agreement, etc.], accedes to the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of accession at [place] on [date].

[Signature]

Source: Annex 5, UN Treaty Handbook (https://treaties.un.org/Pages/Resource.aspx?path=Publication/TH/Page1\_en.xml)

### 4. More Information



#### More Information: FAQ on the CPTA

Frequently Asked Questions (FAQ) on the Framework Agreement on Facilitation of Crossborder Paperless Trade in Asia and the Pacific

Update as of December 2020

Note: This FAQ to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (CPTA) has been prepared to assist officials and other stakeholders interested in the CPTA to quickly grasp its origin and key features. It is based on discussions and inputs from officials and experts who have been involved throughout stages of development of the treaty. The FAQ is and experts who have been involved throughout stages of development of the treaty. The FAQ is and informal document and its content is should not be used to support any particular legal interpretation of the provisions contained in the CPTA. The FAQ will be regularly updated. For any questions, please contact the ISACA Secretariat at Info@unor and du/avi/Quin.oru.

United Nations ESCAP

- 1. Why was the Framework Agreement on the Facilitation of Cross-border Paperless Trade in Asia and the Pacific (CPTA) prepared?
- 2. Why the agreement at regional level?
- 3. Does the FA duplicate the efforts of other regional initiatives such as APEC and ASEAN?
- 4. What are the benefits of the CPTA to my country?
- 5. How was the text of the CPTA developed?
- 6. Which agency should play a leading role in cross-border paperless trade facilitation?
- 7. What does the text of the CPTA contain?
- 8. What is the nature of the CPTA?
- 9. To what areas is the CPTA applied?
- 10. What are key features of the CPTA?
- 11. What is the relationship between the CPTA and the WTO Agreement on Trade Facilitation?

For more information: <a href="https://www.unescap.org/sites/default/d8files/knowledge-products/FAQ%20on%20the%20Framework%20Agreement">https://www.unescap.org/sites/default/d8files/knowledge-products/FAQ%20on%20the%20Framework%20Agreement</a> Dec%202020.pdf

### More Information: FAQ on the CPTA (Cont'd)

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United Nations ESCAP

- 12. What is the relevance of the CPTA to Least Developed Countries (LDCs) and Land-Locked Developing Countries (LLDCs)?
- 13. What are the obligations of parties?
- 14. What are conditions for entry into force of the CPTA?
- 15. What actions would follow entry into force?
- 16. What would be covered in the action plan?
- 17. What is the timeline to achieve cross-border paperless trade in Asia-Pacific?
- 18. If I become a party, do I have to exchange electronic data and information with all other parties?
- 19. How will my country benefit from becoming a party at an early stage?
- 20. What are possible negative impacts of the CPTA?
- 21. Do I need to fulfill technical and legal requirements to become a party to the CPTA?
- 22. Who would sign an instrument for the CPTA from my country?

For more information: <a href="https://www.unescap.org/sites/default/d8files/knowledge-products/FAQ%20on%20the%20Framework%20Agreement">https://www.unescap.org/sites/default/d8files/knowledge-products/FAQ%20on%20the%20Framework%20Agreement</a> Dec%202020.pdf

#### More information: Webpage on the CPTA



http://www.unescap.org/resources/framework-agreement-facilitation-cross-border-paperless-trade-asia-and-pacific

#### More Information: Related tools and resources

- Readiness Assessment Guide for Crossborder Paperless Trade
- https://readiness.digitalizetrade.org/



https://www.digitalizetrade.org/

- United Nations Network of Experts for Paperless Trade and Transport in Asia and the Pacific (UNNExT)
- https://unnext.unescap.org/







## **THANK YOU**

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