

11 November 2015

Original: English

**United Nations Commission
on International Trade Law**
Working Group III (Online dispute resolution)
Thirty-second session
Vienna, 30 November-4 December 2015

**Online dispute resolution for cross-border electronic
commerce transactions**

Submission by the Russian Federation

Note by the Secretariat

The Government of the Russian Federation has submitted to the Secretariat Addendum 2 to “Vision and conceptual approaches to elaboration in specialized United Nations agencies and in relevant international organizations a family of recommendations on establishing and functioning of a trans-boundary trust space” (A/CN.9/WG.III/WP.136). The text received by the Secretariat is reproduced as an annex to this note in the form in which it was received.



ANNEX

ESCAP INTERIM INTERGOVERNMENTAL STEERING GROUP ON FACILITATION OF TRANSBOUNDARY PAPERLESS TRADE

REFERENCE

In accordance with the Bulletin of the United Nations Secretary-General on the organization of the Secretariat of the Economic and Social Commission for Asia and the Pacific, ST/SGB/2005/11 of 29 April 2005, the Secretariat of the Economic and Social Commission for Asia and the Pacific (ESCAP):

- (a) Promotes economic and social development through regional and subregional cooperation and integration;
- (b) Functions as the main forum for General issues of economic and social development in the United Nations system for the ESCAP region;
- (c) Formulates and promotes activities and projects associated with development and meeting the needs and priorities of the region, and acts as executing Agency for relevant operational projects;
- (d) Conducts studies, surveys and other activities within the terms of reference of the Commission;
- (e) Develops and executes programmes of technical cooperation.

Therefore, ESCAP represents the organizational basis for integration of the economies and societies of countries in Asia and the Pacific through regional and subregional cooperation and integration. In other words, ESCAP represents the organizational basis of the regional globalization.

Globalization as an inevitable trend of the development of civilization unites countries as a result of the exchange of goods, services and products, information, knowledge and cultural values. In recent decades the pace of this global integration has become much more high and impressive by the unprecedented achievements, especially in the field of information and telecommunications technologies. The clearest example of the convergence processes of international exchange of goods, products and the IT services is the emergence and development of international electronic Commerce (e-commerce).

According to the WTO definition, the electronic Commerce is the process of production, sale, advertising and distribution of any products in all telecommunications networks. E-Commerce is inherently accompanied by electronic document interchange: electronic catalogues of goods and services, electronic price lists, electronic consignments and other negotiable instruments, electronic payment documents, contracts in electronic form, electronic protocols for tender procedures — all these and many other electronic documents containing important information about the content of trade procedures, generate the electronic document international e-Commerce.

To create a legal framework for the cross-border paperless electronic trade within ESCAP the latter is developing a regional project of the Intergovernmental Agreement on facilitation of the cross-border paperless trade in the Asia-Pacific region and the “road map” to him. A draft of Agreement was presented for the first time in the report of the first meeting of the intergovernmental steering group on the simplification of cross-border paperless trade in Moscow in April 2015 and discussed at the first joint meeting of technical and working groups in September 2015 in Bangkok.

With regard to the risks existing in global telecommunications networks, especially relevant becomes the task of ensuring trust and legal validity of related electronic documents. Solutions to meet these characteristics of the electronic documents of international e-Commerce are realized in the form of infrastructure of transboundary trust space (TTS) — a set of legal, organizational and technical conditions and requirements recommended by the specialized agencies of the United Nations and other specialized international organizations with the aim of ensuring confidence in the international exchange of electronic documents and data between actors (subjects) of electronic interaction. The technological basis of TTS is the set of services of a trusted third party (TTP).

The most obvious for these technology application areas, along with solving problems of documentary maintenance of various types of border controls of goods (veterinary, phytosanitary, transport, etc.), providing transboundary banking services, telemedicine systems and learning systems, were traditionally considered cross-border electronic trading, in particular electronic public procurement with the participation of foreign suppliers. Legal and technological aspects of the use of the services of a trusted third party were developed in the framework of international formats (SCO, EAEC, APEC, RCC, CIS, EU and others), as well as to address business challenges. The techniques of cross-border interoperability of electronic signatures and electronic identification on the basis of TTP services are actively applied within the framework of pan-European projects PEPPOL and STORK. The flagship of the practical use of TTP services is currently the Eurasian Economic Union, which uses TTP as the basis of the infrastructure of the transboundary space of trust in the context of creating an integrated information system combining dozens of cross-border information processes. The strategy for the development of this infrastructure involves connecting to it not only public authorities of the EAEU member States, but also companies and individuals.

To cope with the task of ensuring legally significant transboundary mutual recognition of trade data and documents in electronic form, the representatives of the Russian Federation proposed to include a clause on establishment of transboundary trust space (TTS) for the subjects of electronic interaction in article 8 of the draft regional agreement. The regular joint session of the technical and legal working groups, scheduled for November 2015, shall decide on the topic of defining requirements to infrastructure and evaluation criteria for the readiness of the respective country’s infrastructure for mutual legally significant recognition of trade data and documents in electronic form. This proposal is being reconciled within working subgroups between the regular sessions of technical and legal working groups (September-November 2015). ESCAP experts from the Russian Federation, Pakistan, Sri Lanka, Thailand, India, South Korea and other countries are actively involved in this programme.