Overview of the UNCITRAL Model Law on Electronic Transferable Records

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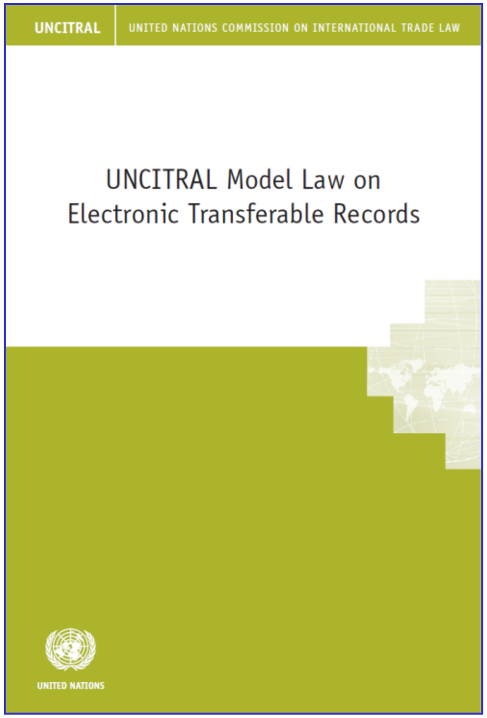

Adopted in 2017, the Model Law on Electronic Transferable Records (MLETR) enables the use in electronic form of bills of lading, promissory notes, etc.

Seen as a key enabler of digital trade financing and paperless trade facilitation

Supports the use of emerging technologies developments such as blockchain, IoT and smart contracts

Text and explanatory note are available on the [UNCITRAL website]

MLETR: the core issue

- Certain commercial documents and instruments incorporate the right to delivery of goods or payment of sums of money:
  - bills of lading
  - bills of exchange
  - promissory notes
  - warehouse receipts
  - cheques
  - insurance policies / certificates
  - (letters of credit,...)
- The incorporation of the right to delivery or payment presupposes the use of a tangible medium (paper)

Fundamental features of the MLETR

- Enabling law: no new regulation or prescription
  - Existing regulation continues to apply
- Technology neutral: compatible with registry-, token- and distributed ledger-based (blockchain) systems
  - Promotes interoperability and dataflows
- Built around functional equivalence rules: the same law applies to electronic and paper-based documents:
  - Interaction with third parties
  - Use as collateral
- And more:
  - Inclusion of metadata, data originating from oracles, smart contracts etc.
  - Change of medium

Preventing double-spending

- Need to avoid multiple requests for the same performance
  - Paper-based documents are supposed to be in a single original
  - From experience, paper-based documents are sufficiently reliable, but they are far from perfect
  - Documentary credit fraud is on the rise
- The MLETR combines the notions of “control” and “singularity” to prevent multiple claims
- One ETR = one claim for performance

Why enact the MLETR?

- Enables trade-related dataflows
  - Based on tech-neutrality and interoperability
- Improves governance of supply and trade financing chains
- Reduces compliance costs
  - Easier access to credit
- Safeguards against fraud
- Minimises manual inputs
  - Prevents errors and inconsistencies
- Addresses specifically cross-border operations

MLETR and business process re-engineering

- Dematerialisation of certain commercial documents is a necessity
- Adoption of the MLETR allows reengineering business processes around commercial transactions (and not documents)
- All commercial (transport and finance) and regulatory documents may be contained in a single electronic transferable record
  - Information may be selectively shared with business partners
  - This enables integration in a single flow of all data elements in the supply chain (“data pipeline”)
- A single electronic transferable record offers best data quality
  - complete, accurate, up-to-date and authentic

MLETR in practice: response to COVID-19 related trade disruptions

- Risk reduction:
  - paperless trade minimises personal interaction
  - blockchain implementation may increase origin traceability
- Faster response:
  - full control of logistics and customs supply chain allows real time tracking and priority delivery of critical shipments
- Robust economic recovery:
  - improved trade financing governance and reduced compliance costs allow easier, faster and more affordable access to credit, including by SMEs

How to enact the MLETR?

- MLETR may be enacted as a stand-alone or add-on to existing texts
  - Some 100 States have enacted UNCITRAL texts on e-commerce
  - Including most Asian and Pacific States
- Adopted in Bahrain, Singapore, Abu Dhabi Global Market
- Bills introduced in Belize, Kiribati and Paraguay, among others
- Referenced in Digital Economy Agreements
- The G7+ ministerial declaration of 28 April 2021 promotes a framework for G7 collaboration on electronic transferable records based on MLETR