

**UNNE<sub>x</sub>T Workshop on the Legal  
Framework for Single Window  
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**OVERVIEW OF  
[ELECTRONIC] SINGLE WINDOW  
LEGAL ASPECTS**

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# DISCLAIMER

**Please note that the views presented here and discussed during our sessions today and tomorrow are unofficial comments and not necessarily those of the organizations with which I work. They represent my views on these legal issues.**

# **Legally Enabling the Single Window in National Law – Overview**

- **Customs increasing role in trade facilitation**
- **International trade development**
- **The technical development of the Single Window**
- **The complexities of the legal issues for domestic and cross-border Single Window operations**

- **Recognition of the importance of the legal infrastructure of the Single Window**
  - **For ‘legal’ operation of the National Single Window (NSW)**
  - **For cross-border trade and the international supply chain**
- **Use of international legal standards and best practices**

# Legal Standards and Guidance

- UN Commission on International Trade Law (UNCITRAL) – **E-Commerce**
- World Customs Organization (WCO)
- UN Centre for Trade Facilitation & Electronic Business (UN/CEFACT)
  - UN Recommendation 33
  - **UN Recommendation 35**
- UN Economic and Social Commission for Asia and the Pacific
- The World Trade Organization (WTO)
- **Harmonization and Interoperability**

# **UN Single Window Recommendations**

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

## **UN Recommendation 33**

***“Within the context of this Recommendation 33, a Single Window is defined as a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfill all import, export, and transit-related regulatory requirements. If information is electronic, then individual data elements should only be submitted once.”***

# **UN Recommendation 35**

- 1. Undertake a study (including e-Commerce legal benchmarking and ‘gap analysis’ studies) to determine an appropriate set of measures that may need to be taken to address legal issues related to national and cross-border exchange of trade data required for Single Window operations (The International Trade Single Window Legal Framework.)**
- 2. Use the UN/CEFACT checklist and its guidelines (Annexes I and II) to ensure that the most frequent legal issues related to national and cross-border exchange of trade data are included in the framework.**

## Recommendation 35 (Cont.)

3. Amend existing legislation, regulations, decrees, etc., if necessary, to address the identified legal issues and gaps.
4. Utilize international standards, international legal instruments, and soft law instruments, where available, throughout the entire process of creating a legally enabling environment for an International Trade Single Window.

# **Recommendation 35 Guidelines**

- 1. Legal basis for implementing a National 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**
- 6. Data quality issues**

# **Rec. 35 Guidelines (Continued)**

- 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**

# **Essentials of the SW Legal Framework**

- 1. National law should authorize NSW implementation**
  - a. National Legislation**
  - b. Governmental Decrees (e.g., Presidential Decrees, etc.)**
  - c. Regulations**
- 2. Electronic commerce transactions should be authorized in national law.**
- 3. National law should authorize acceptance of electronic documents, records, and messages in lieu of paper documents/records/messages in administrative and judicial systems**

# **Essentials of the SW Legal Framework**

- 4. National law should implement the international principles of “functional equivalence” and “non-discrimination.”**
- 5. The NSW must be authorized to engage in sharing and electronic transmission and acceptance of customs/trade data with other countries as well as among and between its own government agencies**

- ***“LEGAL GUIDE TO THE IMPLEMENTATION OF ELECTRONIC SINGLE WINDOW FACILITIES”***
- **UN Network of Experts for Paperless Trade**
- **Contributors:**
  - **UN Economic and Social Commission for Asia and the Pacific**
  - **UN Commission on International Trade Law**
  - **UN Economic Commission for Europe**
  - **World Customs Organization**

- **Questions?**

- **Comments?**

*Thank you!*

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