

***UNNExT Workshop on Legal Framework  
for the Single Window  
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**LEGAL RECOGNITION OF  
ELECTRONIC  
COMMUNICATIONS**

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# Definitions

- *Electronic Communication*

- “... any communication that the parties make by means of data messages”

- *Data Messages*

- “... information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not limited to, electronic data interchange, electronic mail, telegram, telex or telecopy”

UN Electronic Communications  
Convention (ECC), Article 4(b) and (c)

# Functional Equivalence

- Paper Documents versus Electronic Documents?
- “A **communication** or a contract shall not be denied validity or enforceability on the sole ground that it is in the form of an electronic communication.”

*ECC, Article 8 (1), Legal recognition of electronic communications*
- “Where the law requires that a **communication** or a contract should be **in writing**, or provides consequences for the absence of a writing, that **requirement is met by an electronic communication if the information contained therein is accessible so as to be usable for subsequent reference.**”

*ECC, Article 9 (2)*

# Single Window Environment

- *“Within the context of 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.**”*

# Single Window Environment

- National Single Window (NSW) usually involves
  - Customs Administration
  - Other Participating Government Ministries/Agencies
  - Traders, shippers, financing facilities, etc.
- Transactions within the NSW
  - B2G
  - G2B
  - G2G
  - (B2B)

# Establishing the e-Transactions Legal Environment for the NSW

- Create National enabling law that provides legal recognition for electronic communications and transactions domestically and across borders
- This Law should be applicable to all government ministries/agencies as well as private sector entities
  - Except in a few legal areas, each Ministry should be authorized to accept and use electronic communications
  - Authorization should supersede existing legal mandates providing only for 'written' documents

# Establishing the e-Transactions Legal Environment for the NSW

- Uniform (harmonized) regulations should be adopted by each Ministry participating in the NSW that provides for all necessary requirements for participation through electronic communications
- When establishing the overall legal framework for the recognition of electronic communications and transactions, Governments should address the underlying legal and technical considerations important to the framework (e.g., information security, data protection, etc.)

# Electronic Evidence

... issues of the admissibility of electronic  
... tations in judicial and administrative  
... gs will arise

... ng judicial rules of procedure and evidence to  
... dmissibility issues

... countries, established judicial rules of procedure  
... dence address admissibility issues

... in many countries have recently been adapting  
... es of procedure and evidence to accommodate  
... wing emergence of information, data, and other  
... f documentation in electronic or digital form

... s for Admissibility and Authentication

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