



Air Cargo Digitalization in COVID-19 Times: Perspectives on Legal Frameworks and Solution Implementation

28 June 2022

Session 2: Legal Framework – A Key Enabler for
Digital Transport and Trade

Luca Castellani

UNCITRAL Secretariat

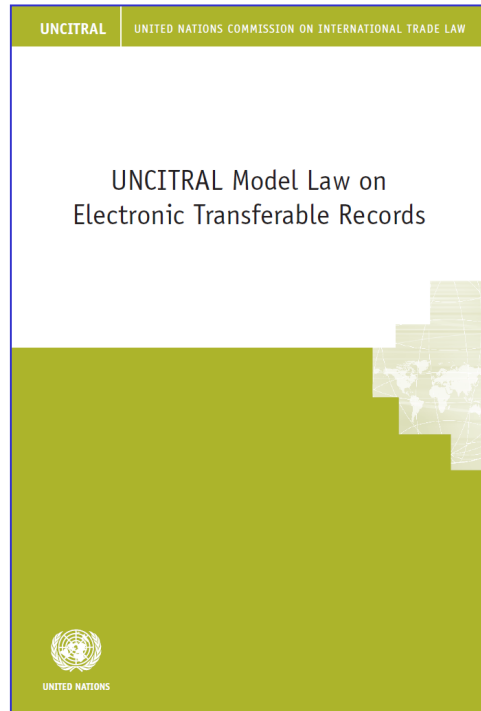
Promoting the digital economy

- High-level goals:
 - Make information available everywhere, anytime
 - Enable data reuse and analysis
- Success in the digital economy is the result of policy, technical and legal choices
- Need to have certainty and predictability on legal status and effect

The issue

- Transferable documents and instruments / documents of title
 - Holder may receive money or goods
 - Examples: bills of lading, checks, bills of exchange, promissory notes, warehouse receipts, possibly letters of credit
- Can be used as collateral for financing
- Contain best quality information about the commercial transaction
- How may the law enable their use in electronic form?

The solution: UNCITRAL MLETR



Adopted in July 2017, the Model Law on Electronic Transferable Records (MLETR) is the most recent UNCITRAL text in the field of digital trade.

Text and explanatory note to the MLETR are available on the [UNCITRAL website](https://www.uncitral.org/uncitral/index.php?id=75)

MLETR: the features

- Enabling law: no new regulation or prescription
- Functional equivalence: apply same legal regime to electronic and paper-based documents
- Technology neutral (includes with DLT guidance)
- Main features:
 - Singularity: prevent double spending
 - Control: ensure that the person disposing of the ETR (e.g. requesting performance) is the one supposed to be able to do so
 - Integrity: record all events

How to enact the MLETR?

- More than 100 States have already enacted UNCITRAL texts on e-commerce
- MLETR is in force in seven jurisdictions
- Several other countries considering
- Endorsement by G7, etc.
- The UNCITRAL secretariat is partnering with [ICC Digital Standards Initiative](#) to promote MLETR

MLETR and paperless trade

- The commercial transaction is one: do we really need several commercial documents?
- A single ETR may contain all trade-related data:
 - replaces all commercial and compliance documents
 - information is selectively shared with business partners
 - enables integration of all data elements from various sources in a supply chain (“data pipeline”)
 - ensures best data quality:
 - up-to-date, complete, accurate and authentic
- ETRs may lie at the core of ecosystems enabling electronic transactions related to logistics, finance and customs
- This allows reengineering business processes without affecting regulatory requirements

Countering COVID-19 related trade disruptions

- Risk reduction:
 - paperless operations minimise risks and delays arising from personal interaction
- Faster response:
 - full control over logistics and customs supply chain allow to prioritise delivery of critical shipments
- Robust economic recovery:
 - improved management of trade financing allows easier, faster and more affordable access to credit, especially by SMEs.

MLETR and digital trade ecosystems

- Need to set up a comprehensive digital trade ecosystem to counter disruptions due to pandemic and other external events
- The legal environment for that ecosystem should enable the use of all commercial documents – negotiable (e.g., bills of lading) and non-negotiable (e.g., air waybills)
- The adoption of MLETR is necessary to digitize negotiable documents
 - and provides additional security to non-negotiable documents