



Role of advanced technologies in overcoming COVID-19 disruptions in international trade: the contribution of the UNCITRAL Model Law on Electronic Transferable Records

Luca Castellani

Secretary

UNCITRAL Working Group IV
(Electronic Commerce)

Promoting digital trade

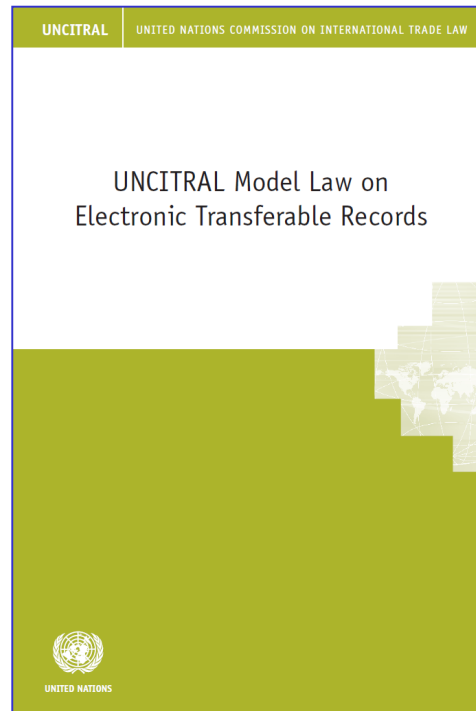
- High level goals:
 - Make information available everywhere, anytime
 - Enable data reuse and analysis
- Success in digital trade is the result of policy, technical and legal choices
- Need to have certainty and predictability on legal status
- Certain business fields are particularly risk-averse

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 significant information about the commercial transaction
- How to legally 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.



MLETR: the 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;
- Functional equivalence: apply same legal regime to electronic and paper-based documents;
- Technology neutral;
- Enabling, not prescriptive law.

MLETR and business process re-engineering

- Dematerialisation of commercial documents is a necessity
 - Bank Payment Obligations (BPO)
- This also provides an occasion to reengineer business processes:
 - The MLETR enables use of blockchain-based negotiable documents and instruments for all purposes
 - E.g., confirmation of legal validity of blockchain-based bills of lading as a result of MLETR enactment may reduce banks' capital requirements for financing under Basel III
 - The commercial transaction is one: do we really need to create several commercial documents?

MLETR and paperless trade implementation

- A single ETR containing 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 lie at the core of national trade platforms
 - Single ecosystem for logistics, finance and customs single window

MLETR and 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.

How to enact the MLETR?

- Some 100 States have already enacted UNCITRAL texts on e-commerce
- MLETR is in force in Bahrain
- Several other countries considering
 - Singapore has announced MLETR adoption in the framework of [Trade Trust implementation](#)
- The text and explanatory note to the MLETR are available on the [UNCITRAL website](#)
- The UNCITRAL secretariat is glad to assist countries in considering enactment of the MLETR

UN/CEFACT project on MLETR implementation

- Ongoing UN/CEFACT project on [Transfer of MLETR-compliant titles](#)
- Aims to provide guidance on MLETR implementation, namely:
 - Which key issues should be considered while creating, administering and using technologies for electronic transferable records.
 - How DLT / blockchain could be used to facilitate title transfers of MLETR-compliant title records;
 - How to use existing UN/CEFACT deliverables;