INTERNATIONAL CHAMBER OF COMMERCE

UNCITRAL MODEL LAW ON ELECTRONIC TRANSFERABLE RECORDS

The Case for Adoption

November 2021

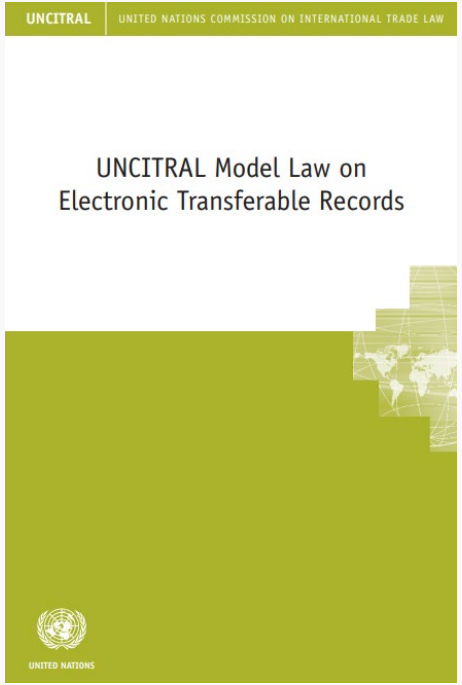
THE CHALLENGE TODAY

- The current legal treatment of electronic transferable records inhibits market demand and innovation.
- Most jurisdictions continue to require paper-based trade documentation.
- To go paperless, parties to a transaction are forced to use private law contracts within closed-loop trading platforms.
- As a result, organizations must adopt multiple products for customers in different jurisdictions to enable the transferal of electronic records.
- This is inefficient for large organizations and cost-prohibitive for SMEs.

THE SOLUTION: MLETR

The UNCITRAL Model Law on Electronic Transferable Records (**MLETR**) creates an enabling legal environment for paperless trade. It:

- ☑ provides an international framework to align national laws and enable the legal use of electronic documents of title (electronic transferable records or "**ETRs**") both domestically and across borders;
- ☑ builds on the principles of **non-discrimination** against the use of electronic means, **functional equivalence**, and **technology neutrality** underpinning all UNCITRAL texts on electronic commerce;
- ☑ enables the use of all technologies including registries, tokens and distributed ledgers;
- ☑ was drafted in a multi-year, inclusive and transparent process by the United Nations Commission on International Trade Law, a subsidiary body of the UN General Assembly with a mandate to further the progressive harmonization and modernization of international trade law.



ADVANTAGES FOR SMES

- ☑ Enables SMEs to leverage a wide range of tools, from email to more expensive trade documentary flow solutions to enable trade.
- ☑ Prevents SMEs from having to sign up to multiple different documentary flow solutions with different rules and legal jurisdiction requirements.
- ☑ Simplifies operating models and risk profiles of all shippers, customs departments, banks, buyers and sellers.
- ☑ Incentivizes new business models and greater global inclusion.

ADVANTAGES FOR STATES

- ☑ Enhanced local and global value chain resilience to financial crises, commodity price movements, terrorist activities and pandemic events.
- ☑ Promotion of rules-based trade documentation governed by state legislation not private contracts.
- ☑ Encourages modernization of business models, increasing market efficiency and enabling technological advancements.
- ☑ Contributes towards attainment of the UN SUSTAINABLE DEVELOPMENT GOALS.

SUSTAINABLE DEVELOPMENT GOALS

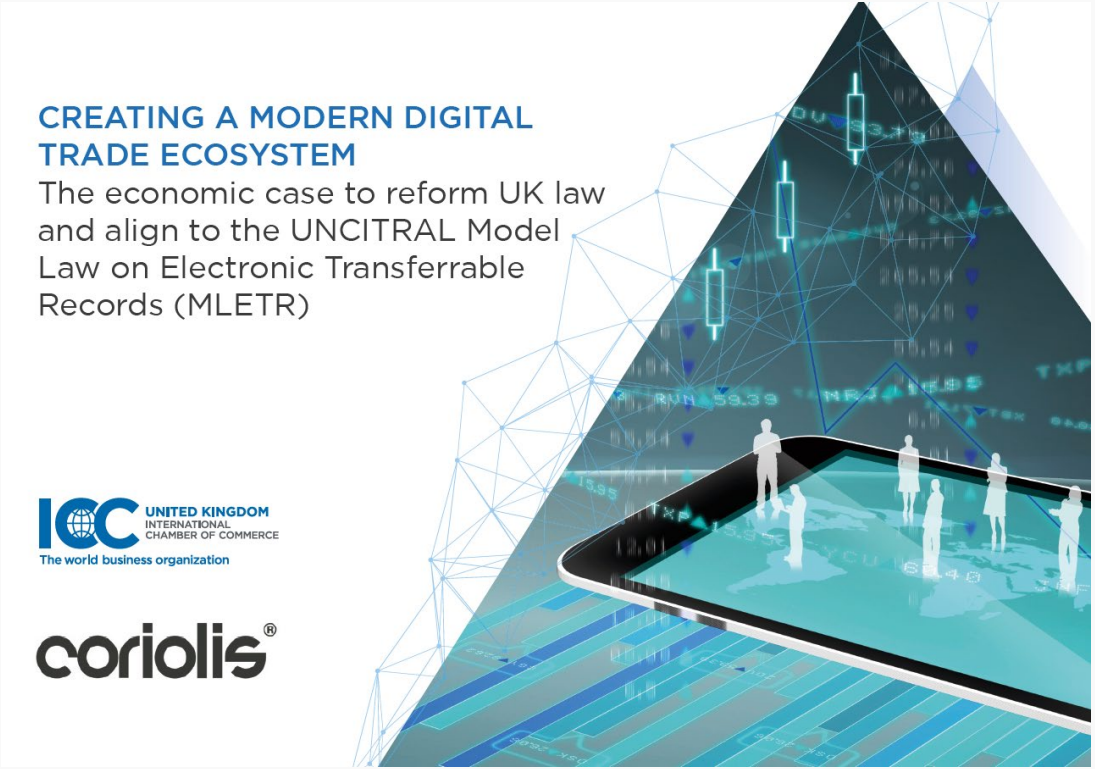
SDG	Benefits
1 NO POVERTY	Digitization can alleviate poverty and reduce inequalities by facilitating global trade, reducing trade barriers, and promoting shared prosperity. Paperless trade will lead to trade-related efficiencies and tackle the trade finance gaps that dampen economic growth and job creation, lifting people from poverty and improving living standards.
8 DECENT WORK AND ECONOMIC GROWTH	Paperless trade will reduce the cost of trade finance, enhance inclusion for MSMEs by eliminating costly paper-based processes, reduce due diligence costs, simplify risk mitigation actions, and vastly reduce process turnaround times. These factors will enhance the sustainability of trade as an engine of economic growth.
12 RESPONSIBLE CONSUMPTION AND PRODUCTION	An estimated 4 billion trade documents are in circulation. If stacked on each other, the documents would be 520,000 meters high and constitute approximately half a million trees.
16 PEACE, JUSTICE AND STRONG INSTITUTIONS	Current technologies that could be enabled by legislative reform, including distributed ledger technology, will substantially reduce fraud risk via smart contracts, bringing greater trust to the international trade finance system.

ECONOMIC ADVANTAGES FOR ALL

According to a study conducted by Coriolis Technologies and commissioned by ICC United Kingdom, modernizing laws in the UK will unleash SME growth and:

- ☑ Generate **£25 billion** in new economic growth – **25%** extra SME trade by 2024
- ☑ Reduce the number of days needed for processing documents by up to **75%**
- ☑ Free up **£224 billion** in efficiency savings which can be recycled into the real economy
  - **£171 billion** from bills of lading
  - **£26 billion** from bills of exchange
  - **£27 billion** from promissory notes
- ☑ Generate **£1 billion** to tackle the trade finance gap

FURTHER UK INSIGHTS HERE:



ACTION AS OF OCTOBER 2021

JURISDICTIONS THAT HAVE ADOPTED MLETR

Bahrain, 2019

Singapore, Feb 2021

ADGM, Feb 2021

Kiribati, Sep 2021

Belize, Sep 2021

JURISDICTIONS CONSIDERING ALIGNMENT OR ADOPTION

United Kingdom

Paraguay

Papua New Guinea

Trinidad & Tobago

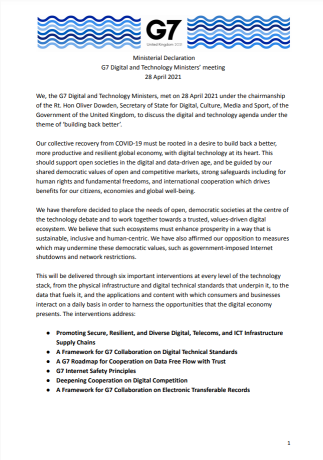
E-COMMERCE JOINT STATEMENT INITIATIVE

- **Singapore introduced a provision on MLETR; removed due to lack of interest. UK and Singapore reintroduced.**

> *The Parties recognise the importance of facilitating the use of electronic transferable records. To this end, each Party shall endeavour to establish a legal framework governing electronic transferable records consistent with the UNCITRAL Model Law on Electronic Transferable Records 2017.*

G7 MINISTERIAL DECLARATION

"Paper-based transactions, which still dominate international trade are a source of cost, delay, inefficiency, fraud, error and environmental impact. It is our shared view that by enabling businesses to use electronic transferable records we will generate efficiencies and economic savings. This will strengthen the resilience of our global economic system and play a crucial role in trade recovery across the G7."



G7 United Kingdom 2021

Ministerial Declaration
G7 Digital and Technology Ministers' meeting
28 April 2021

We, the G7 Digital and Technology Ministers, met on 28 April 2021 under the chairmanship of the Rt. Hon Oliver Dowden, Secretary of State for Digital, Culture, Media and Sport, of the Government of the United Kingdom, to discuss the digital and technology agenda under the theme of 'building back better'.

Our collective recovery from COVID-19 must be rooted in a desire to build back a better, more productive and resilient global economy, with digital technology at its heart. This should support open societies in the digital and data-driven age, and be guided by our shared democratic values of open and competitive markets, strong safeguards including for human rights and fundamental freedoms, and international cooperation which drives benefits for our citizens, economies and global well-being.

We have therefore decided to place the needs of open, democratic societies at the centre of the technology debate and to work together towards a trusted, values-driven digital ecosystem. We believe that such ecosystems must enhance prosperity in a way that is sustainable, inclusive and human-centric. We have also affirmed our opposition to measures which may undermine these democratic values, such as government-imposed Internet shutdowns and network restrictions.

This will be delivered through six important interventions at every level of the technology stack, from the physical infrastructure and digital technical standards that underpin it, to the data that fuels it, and the applications and content with which consumers and businesses interact on a daily basis in order to harness the opportunities that the digital economy presents. The interventions address:

- **Promoting Secure, Resilient, and Diverse Digital, Telecoms, and ICT Infrastructure Supply Chains**
- **A Framework for G7 Collaboration on Digital Technical Standards**
- **A G7 Roadmap for Cooperation on Data Free Flow with Trust**
- **G7 Internet Safety Principles**
- **Deepening Cooperation on Digital Competition**
- **A Framework for G7 Collaboration on Electronic Transferable Records**

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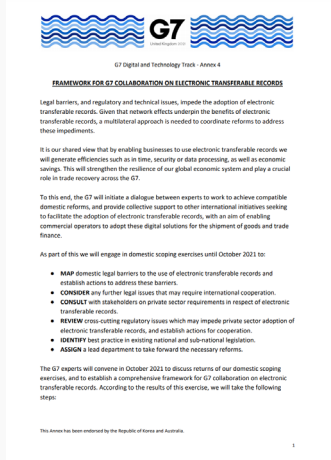
Digital and Technology Ministerial Declaration



G7 United Kingdom 2021

G7 Digital and Technology Track - Annex 4

FRAMEWORK FOR G7 COLLABORATION ON ELECTRONIC TRANSFERABLE RECORDS

Legal barriers, and regulatory and technical issues, impede the adoption of electronic transferable records. Given that network effects underpin the benefits of electronic transferable records, a multilateral approach is needed to coordinate reforms to address these impediments.

It is our shared view that by enabling businesses to use electronic transferable records we will generate efficiencies such as in time, security or data processing, as well as economic savings. This will strengthen the resilience of our global economic system and play a crucial role in trade recovery across the G7.

To this end, the G7 will initiate a dialogue between experts to work to achieve compatible domestic reforms, and provide collective support to other international initiatives seeking to facilitate the adoption of electronic transferable records, with an aim of enabling commercial operators to adopt these digital solutions for the shipment of goods and trade finance.

As part of this we will engage in domestic scoping exercises until October 2021 to:

- **MAP** domestic legal barriers to the use of electronic transferable records and establish actions to address these barriers.
- **CONSIDER** any further legal issues that may require international cooperation.
- **CONSULT** with stakeholders on private sector requirements in respect of electronic transferable records.
- **REVIEW** cross-cutting regulatory issues which may impede private sector adoption of electronic transferable records, and establish actions for cooperation.
- **IDENTIFY** best practice in existing national and sub-national legislation.
- **ASSIGN** a lead department to take forward the necessary reforms.

The G7 experts will convene in October 2021 to discuss returns of our domestic scoping exercises, and to establish a comprehensive framework for G7 collaboration on electronic transferable records. According to the results of this exercise, we will take the following steps:

This Annex has been endorsed by the Republic of Korea and Australia.

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Framework for G7 Collaboration on ETRs

WHAT YOU CAN DO:

1. Convene a joint industry working group comprised of trade financiers, insurers, shippers, fintech providers, trade lawyers, corporates with large supply chains
2. Establish a clear scope for the working group – the digitization of documents of 'title'
3. Identify government departments with key interests – Finance, Justice, Trade, Customs, Transport, Digital
4. Work with stakeholders to identify the legislative barriers to the digitization of documents of title
5. Identify which body is responsible for law reform (Department of Justice? Law Commission?) and engage early once legislative barriers are understood
6. Identify the right legislative vehicle for reform (primary legislation or implementing regulation? Federal law or model state law?)

THANK YOU

Please visit dsi.iccwbo.org for further information or email Raoul.Renard@iccwbo.org.

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