



# General Assembly

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**United Nations Commission on  
International Trade Law  
Working Group VI  
(Negotiable Cargo Documents)  
Forty-fourth session  
New York, 6–10 May 2024**

## **Preliminary draft provisions for a new instrument on negotiable cargo documents**

### **Submission from the Government of Singapore**

#### **Note by the Secretariat**

The present note contains a submission received on 19 January 2024 from the Government of Singapore in preparation for the forty-fourth session of Working Group VI. The submission is reproduced as an annex to the present note in the form in which it was received by the Secretariat.



## Annex

### Proposal on provisions relating to negotiable electronic cargo records

1. At the forty-third session (“**session**”) of UNCITRAL Working Group VI (the “**Working Group**”) on Negotiable Cargo Documents held in Vienna from 27 November–1 December 2023, the Singapore delegation made an intervention to propose an alternative approach to providing for negotiable electronic cargo records in the draft instrument. This proposal was intended for the Working Group’s consideration at its forty-fourth session to be held in New York in May 2024. A summary of Singapore’s intervention is found in paragraph 99 of the Report of Working Group VI on the Work of its forty-third session ([A/CN.9/1164](#)).

2. At the session, a request was made for Singapore to submit the proposal in writing ahead of the forty-fourth session to allow for a more detailed consideration by delegations.

3. At present, the draft instrument contains detailed provisions on negotiable electronic cargo records, the majority of which are contained in chapter 3. We propose that these provisions be replaced with a single general provision requiring States parties to adopt under their national laws an appropriate legal framework enabling and governing the use of electronic equivalents of negotiable cargo documents, such as that contained in the UNCITRAL Model Law on Electronic Transferable Records (“**MLETR**”).

4. The rationale for our proposal is as follows:

(a) **Avoiding unnecessary duplication of effort.** The MLETR which was prepared specifically for the purpose of enabling the creation and use of electronic transferable records, is capable of providing for the creation and use of negotiable electronic cargo records (which are electronic transferable records<sup>1</sup>). The Working Group need not spend further time and resources to create bespoke substantive rules governing negotiable electronic cargo records when the work on formulating effective uniform legal provisions enabling the creation and use of electronic transferable records has already been done;

(b) **Providing flexibility to cater for developments in technology and business practice.** If the draft instrument takes the form of a convention, this proposal to adopt an appropriate regime under national law allows States parties to retain the flexibility to make periodic updates to their legal framework for electronic transferable records when necessary. The explanatory note<sup>2</sup> to the MLETR itself envisages future updates by UNCITRAL which can be more easily adopted by States;

(c) **Reducing obstacles to adoption of the draft instrument.** States which have existing legal frameworks which take a different approach to enabling the use of

<sup>1</sup> The MLETR defines an “electronic transferable record” as an electronic record that complies with the requirements of Article 10 of the MLETR.

**Article 10 of the MLETR:**

1. Where the law requires a transferable document or instrument, that requirement is met by an electronic record if:

(a) The electronic record contains the information that would be required to be contained in a transferable document or instrument; and

(b) A reliable method is used:

(i) To identify that electronic record as the electronic transferable record;

(ii) To render that electronic record capable of being subject to control from its creation until it ceases to have any effect or validity; and

(iii) To retain the integrity of that electronic record.

2. The criterion for assessing integrity shall be whether information contained in the electronic transferable record, including any authorized change that arises from its creation until it ceases to have any effect or validity, has remained complete and unaltered apart from any change which arises in the normal course of communication, storage and display.

<sup>2</sup> Please see paragraph 9 of the Explanatory Note to the MLETR.

electronic transferable records in comparison to that which is contained in the draft instrument may find it difficult to adopt the draft instrument if their regimes are incompatible;

(d) **Promoting the adoption of UNCITRAL instruments.** UNCITRAL should promote the adoption of its own instruments. Adoption of the MLETR is gaining momentum, with multilateral groupings and institutions like the G7<sup>3</sup> and the Asian Development Bank,<sup>4</sup> and industry groups like the International Chamber of Commerce,<sup>5</sup> promoting its adoption to digitalize international trade. This proposed alternative approach which avoids inconsistencies with the MLETR in the text of the draft instrument, would indirectly support and promote the adoption of the MLETR;

(e) **Promoting legal standardization and harmonization.** The proposal is consistent with UNCITRAL's aim of establishing a uniform law of electronic commerce through the preparation of uniform laws relating to electronic commerce. Adopting the MLETR would promote the harmonization of legal frameworks dealing with electronic transport and trade documents since the MLETR already caters for maritime bills of lading, warehouse receipts, bills of exchange, and airway bills.<sup>6</sup>

5. We would be grateful if the Secretariat could do the necessary to circulate Singapore's written proposal to the members of the Working Group and to request that the Working Group consider the proposal at its forty-fourth session in New York in May 2024.

<sup>3</sup> Ministerial Declaration at the G7 Legal and Technology Ministers' meeting, 28 April 2021.

<sup>4</sup> Driving Digitalization of Global Trade: UNCITRAL Model Law on Electronic Transferable Records (ADB Brief No. 280, December 2023, accessed at [www.adb.org/sites/default/files/publication/932456/adb-brief-280-driving-digitalization-global-trade.pdf](http://www.adb.org/sites/default/files/publication/932456/adb-brief-280-driving-digitalization-global-trade.pdf)

<sup>5</sup> ICC Digital Standards Initiative, accessed at [www.dsi.iccwbo.org/policymakers](http://www.dsi.iccwbo.org/policymakers)

<sup>6</sup> See paragraph 38 of the Explanatory Note to the MLETR.