

Readiness Assessment for Cross-Border Paperless Trade: Tuvalu



Economic and Social Commission for Asia and the Pacific



Readiness Assessment for Cross-Border Paperless Trade: TUVALU

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Trade and Investment Division

ESCAP

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Foreword

Trade is a powerful engine for growth and sustainable development. In line with the 2030 Agenda for Sustainable Development, Asia-Pacific countries have strived to make international trade procedures more efficient and inclusive. However, Tuvalu and other Small Island Developing States in the region are still lagging behind in this area. Moving forward, cross-border paperless trade, the conduct of international trade based on electronic data and documents, could certainly help Tuvalu in reducing trade costs and helping its citizens and business benefit from the fast-growing digital economy and e-commerce opportunities.

Trade digitalization, as part of the broader effort toward improving the competitiveness of Tuvalu, is strongly shown as the Government's priorities. Te Kete – National Strategy for Sustainable Development 2021-2030, under Strategic Priority Area 1 and National Outcome 1 focuses on harnessing digital transformation to improve lives. Tuvalu also acceded to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (CPTA) in December 2022, becoming the first country in the Pacific to join the treaty, confirming the Government's commitment to cross-border paperless trade.

In this context, ESCAP, in cooperation with the Ministry of Fisheries and Trade, supported the conduct of a readiness assessment for cross-border paperless trade. The readiness assessments, together with the action plan featured in this report, can serve as a foundation for elaborating more detailed activities at the national and agency levels in this area, with identifiable timelines and potential key agencies. It is hoped that the recommendations and the action plan in the report will support Tuvalu in harnessing the benefits of trade digitalization and engaging in the fast-growing digital economy.



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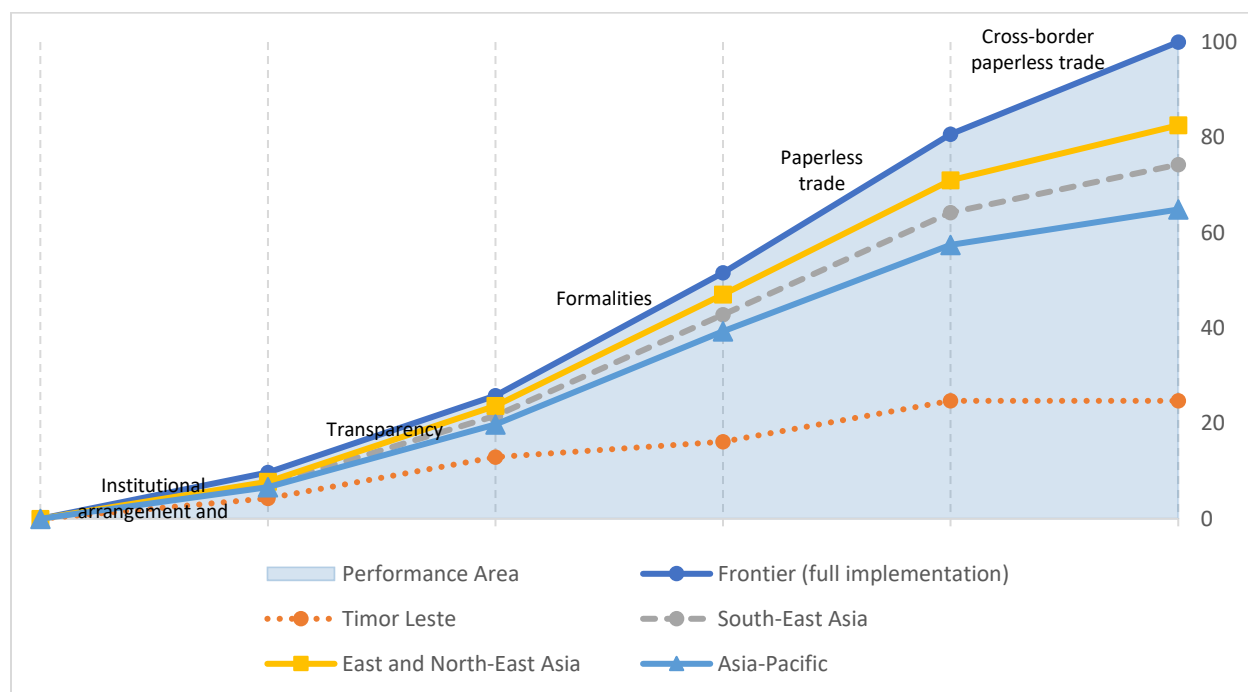
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Executive Summary

This report provides an assessment of Tuvalu’s readiness for cross-border paperless trade, that is, the conduct of domestic and international trade in the form of electronic data and documents through the use of electronic systems. Following a brief overview of trade facilitation implementation in Tuvalu, findings from the technical and legal readiness assessments for cross-border paperless trade are presented. Recommendations on both technical and legal aspects of cross-border paperless trade are then provided, followed by a proposed action plan for the way forward for Tuvalu.

Tuvalu has made limited progress in implementing trade facilitation measures in the past couple of years with the help of the National Trade Steering Committee chaired by the CEO for the Ministry of Fisheries and Trade. Being the fourth Pacific Island Nation to conduct an e-Trade assessment report in 2018-2019 - Tuvalu Rapid e-Trade Readiness Assessment,¹ Tuvalu set up a National E-commerce Committee, co-chaired by the CEO for the Ministry of Justice, Communications, and Foreign Affairs and the CEO for the Ministry of Fisheries and Trade, to implement and monitor activities set out in the report. However, trade implementation in the area of institutional arrangement and cooperation (policies, systems, structures, and processes) remains an important challenge for Tuvalu.

Figure 1: Moving towards cross-border paperless trade: Cumulative implementation score of core groups of trade facilitation measures in Tuvalu, 2021



Note: Maximum possible implementation score is 100. For each group of measures, a slope less steep than the frontier or the benchmark implies lower levels of implementation.

Source: UN Global Survey on Digital and Sustainable Trade Facilitation, 2021; Untfsurvey.org

¹ See https://unctad.org/system/files/official-document/dtlstict2019d13_en.pdf

Tuvalu is at an early stage of implementation of paperless trade. However, the political commitment is high and Tuvalu recognizes the importance of paperless trade both domestically and across borders, and has made good progress in a major area toward the digitalization of trade procedures through the adoption of the ASYCUDA World system for Customs. However, the inadequate level of information and communication technology (ICT) infrastructure, including a poor Internet service provider and a lack of information security policies, delay the full adoption of a national Single Window and undertaking cross-border data exchange with trading partners.

From a legal point of view, Tuvalu has no legal framework specifically aimed at a national Single Window, cross-border paperless trade and information security. The legal landscape is at its infant stage of development. A gap analysis of the e-commerce regulatory framework has been completed and there is foundational work towards developing laws supporting cross-border paperless trade including Electronic Transaction Laws and Data Protection laws. Tuvalu's trade relation with the international market is still not active and therefore minimal agreements have been made at that level except for: the Revised Kyoto Protocol on the Harmonization of Customs Procedures; the recently acceded Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (CPTA); and the United Nations Convention on the Use of Electronic Communications in International Contracts (2005). It is hoped that domestic law will soon be enhanced to accommodate domestic needs as well as international obligations associated with a transition to cross-border paperless procedures. Reform efforts should take into consideration regional or global best practices in e-communications that will help harmonize Tuvalu's legal regime with that of its trading partners.

In addition to the need for further strengthening of institutional coordinating mechanisms, there are four technical areas requiring further improvements to advance cross-border paperless trade. First, trade related procedures should be automated by enabling relevant regulatory agencies to use paperless trade systems and introducing a National Single Window system. Second, Tuvalu should improve ICT infrastructure and implement strategy plan and guidelines for business continuity of ICT systems, as well as establishing relevant ICT security policies. Seeking for additional funding and a government strategic plan for securing budgets of implementing IT systems of trade-related regulatory agencies are of a great importance. Third, frequent awareness and capacity-building programmes on domestic and cross-border paperless trade for all stakeholders as well as establishing a strong private sector capacities, such as through a business incubator programme, should be crucial to equip human resources in Tuvalu for cross-border paperless trade. Fourth, Tuvalu should continue to actively participate in bilateral, subregional, regional and global initiatives on cross-border paperless trade, such as the recently joined CPTA.

Three areas of legal reform have been found as critical for Tuvalu. First, Tuvalu should ensure that government ministries and agencies will have clear authority to communicate electronically and participate in multi-stakeholder paperless platforms, specifically the ASYCUDA and any future national Single Window systems. Second, Tuvalu should develop and harmonize the legal rules that will allow both government and private

participants in cross-border trade to use electronic documents and communications to the full extent allowed under policies and agreements. These would include areas such as ownership and criteria of liabilities of parties involved in cross-border paperless trade, electronic payments. Third, adopting and harmonizing with international legal standards, regulations and guidelines as well as accession to Conventions, standards and agreements relevant to paperless trade would be crucial.

The readiness assessments together with the action plan featured in this report can serve as a foundation for developing more detailed activities at the national and agency levels, with identifiable timelines and budget sources, which will contribute further to the Government of Tuvalu's need to accelerate progress towards cross-border paperless trade.

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Abbreviations and acronyms

ASYCUDA	UNCTAD Automated Systems for Customs Data
CCCE	Convention on Cybercrime of the Council of Europe (Budapest Convention) (2001)
CPC	Criminal Procedure Code
CGSA	Carriage of Goods by Sea Act
CRBPA	Customs Revenue and Border Protection Act
DOC	Department of Customs and Revenue
DoT	Department of Trade
GoT	Government of Tuvalu
ICT	Information and communication technology
ISO	International Organization for Standardization
MJCFA	Ministry of Justice, Communication and Foreign Affairs
MOF	Ministry of Finance
MFT	Ministry of Fisheries and Trade
MTET	Ministry of Transport, Energy and Tourism
NBT	National Bank of Tuvalu
NEC	National E-commerce Committee
NTSC	National Trade Steering Committee
DBT	Development Bank of Tuvalu
OAG	Office of the Attorney-General
PACER+	Pacific Agreement on Closer Economic Relations Plus
PCA	Price Control Act
POCA	Proceeds of Crimes Act
RKCHCP	Revised Kyoto Convention on the Harmonization of Customs Procedures
SOE	State-owned enterprise
TPA	Tuvalu Post Act
UNCITRAL	United Nations Commission on International Trade Law
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNCTAD	United Nations Conference on Trade and Development
WCO	World Customs Organization
WTO	World Trade Organization

I. Introduction

This report provides an assessment of Tuvalu's readiness for cross-border paperless trade – i.e., the conducting of domestic and international trade in the form of electronic data and documents through the use of electronic systems, as opposed to paper-based data and documents. Benefits from the successful implementation of cross-border paperless trade include a further reduction in trade costs among trading partners, increased regulatory compliance, and accelerated electronic exchange of trade-related data and documents across borders.²

The assessment was conducted by a team of local and international experts following readiness checklists developed by the ESCAP Interim Intergovernmental Steering Group on Cross-Border Paperless Trade Facilitation.³ The local experts conduct interviews with relevant government agencies and private sector stakeholders.⁴ National consultation on facilitating cross-border paperless trade was co-organized by the Department of Trade, Government of Tuvalu and ESCAP on 10-11 November 2022, where preliminary findings from the visits were further reviewed, and consolidated with validations.⁵ Final findings and recommendations incorporating inputs and suggestions received during and following the consultations are presented in this report.⁶ Based on these findings and recommendations, an initial action plan for cross-border paperless trade for Tuvalu has been prepared and is also presented in this report.

It is hoped that this report will further contribute to the Government of Tuvalu's need to accelerate progress toward cross-border paperless trade. It is hoped that this report will help identify technical and legal gaps for Tuvalu in its transition towards a cross-border paperless trade environment and to set practical plans that help narrow those gaps further.

This report is structured as follows: Section II provides a brief state of play of trade facilitation and paperless trade implementation in Tuvalu, based on the UN Global Survey on Digital and Sustainable Trade Facilitation 2019. In sections III and IV, findings from the technical and legal readiness assessment for cross-border paperless trade are presented, respectively. Recommendations both on the technical and legal aspects of cross-border paperless trade that have emerged from the assessment are discussed, followed by the introduction of an initial action plan based on the recommendations in section V. The report ends with a brief discussion of the way forward in section VI.

² ESCAP, (2017), Digital Trade facilitation in Asia and the Pacific. Studies in Trade, Investment and Innovation, No. 87. Available at <https://www.unescap.org/publications/digital-trade-facilitation-asia-and-pacific-studies-trade-investment-and-innovation-87>

³ Cross-border paperless trade: a technical readiness checklist. Available at https://www.unescap.org/sites/default/files/IISG_2019_4_English.pdf

Cross-border paperless trade: a legal readiness checklist. Available at https://www.unescap.org/sites/default/files/IISG_2019_3_English.pdf

⁴ The list of stakeholders interviewed is in Annex I.

⁵ The list of participants in the consultations is in Annex II.

⁶ Consolidated responses to questions in the technical and legal checklists are in Annexes III and IV.

II. Technical readiness for cross-border paperless trade

Key findings on Tuvalu's technical readiness for cross-border paperless trade are summarized below. The findings are presented following the structure of the Technical Readiness Checklist adopted by the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation.⁷ The completed checklist, which contains further details and elaborations, is available in Annex III of this report.

It is shown that Tuvalu's level of technical readiness for cross-border paperless trade is medium. Tuvalu recognizes the importance of paperless trade, both domestically and across borders, and has made significant progress in many areas towards the digitalization of trade procedures. Tuvalu has already implemented the main enabler for a national Single Window, which is the Customs Department's ASYCUDA World system. The system is currently connected to about 50 users that are not customs staff. These users are divided into four categories with each having separate access functions in the system – shipping agent, freight forwarder, customs broker, and declarant. ASYCUDA World serves as the single gateway and covers 100 per cent of trade, while some of its functions, such as electronic payment still need to be fully implemented. The system could accommodate cross-border data exchange. However, the main constraints are the lack of information and communication technology (ICT) infrastructure and information security in place as well as a form of online payment in the country.

Tuvalu has acceded to the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific –on 8 December 2022. A strong political will towards implementing of the Framework Agreement could further improve the overall paperless trade environment in the nation. (see box 1 for further details)

Box 1: The Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific

The Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (CPTA), which is a United Nations treaty, aims to promote cross-border paperless trade by enabling the exchange and mutual recognition of trade-related data and documents in electronic form, and facilitation of interoperability among national and subregional Single Windows and/or other paperless trade systems. It is designed as an inclusive and enabling platform that will benefit all participating economies, regardless of where they stand in terms of trade facilitation or Single Window/paperless trade implementation.

The treaty was adopted by the ESCAP members in 2016. On 20 February 2021, it entered into force, indicating ESCAP members' continued efforts to accelerate trade digitalization in the region. As stated in Article 19 of the Agreement, it entered into force 90 days after the date on which the Governments of at least five ESCAP member States had deposited their instruments of ratification or accession. Azerbaijan acceded in March 2018 and the Philippines acceded in December 2019. The Islamic Republic of Iran ratified in May 2020, Bangladesh ratified in

⁷ Cross-border paperless trade: a technical readiness checklist. Available at <https://readiness.digitalizetrade.org/files/documents/technical-readiness-checklist.pdf>

October 2020 and China, as the fifth country, ratified in November 2020. The Republic of Korea, Tajikistan, Timor-Leste, Turkmenistan, Tuvalu and Mongolia also acceded in 2022. In addition, Armenia and Cambodia signed in 2017. Furthermore, several other ESCAP member States are in the process of completing their domestic processes for accession.

Paperless trade makes international trade more efficient and transparent, while improving regulatory compliance, particularly if trade-related data and documents in electronic form are exchanged across borders. Paperless trade may therefore be the solution of choice to address Tuvalu's trade facilitation needs, in particular in the context of a rapidly digitalizing global economy. Benefits of acceding to the Framework Agreement include:

- Accelerated progress towards a digital and paperless trade environment at the national level, with the opportunity to integrate emerging cross-border paperless trade considerations and best practices early in the development of national Single Windows and other paperless trade systems;
- A reduction in overall investment costs and maximization of returns from investments in paperless trade systems, through concurrent development of national paperless trade systems and environment for cross-border trade data exchange;
- Increased opportunities for capacity-building through training, workshops and knowledge-sharing platforms as well as easier access to information, knowledge and resources to achieve full digital implementation of the World Trade Organization (WTO) Trade Facilitation Agreement;
- Direct participation in the development of pragmatic solutions for the cross-border exchange of trade documents. For more advanced countries with relevant experience and existing practices, this will enable them to ensure that new regional systems and solutions will be harmonized and interoperable with what they have already achieved on a bilateral and/or subregional basis;
- Compliance with commitments a Party may have made through in its bilateral and plurilateral trade agreements, such as regional trade agreements (RTAs) to collaborate on exchanging electronic of data and documents (typically featured in "Paperless Trading" Articles in RTAs, or related provisions or agreements).

For additional information, please see http://bit.ly/ESCAP_FA

A. Paperless trade system at the national level

Institutional and governance bodies

There is a strong commitment to implementing paperless trade systems in Tuvalu. The Ministry of Justice, Communications, and Foreign Affairs are in charge of all paperless and cross-border paperless efforts, and the Ministry of Finance is also actively implementing and maintaining paperless trade systems including the ASYCUDA Worlds. With the National Trade Steering Committee and the National E-commerce Committee being operational and active, the Government of Tuvalu and the country are slowly moving towards a full paperless trade national. However, there is low participation of private sector stakeholders of the trading community in the two committees.

Level of automation

Tuvalu has already implemented the main enabler for a national Single Window – ASYCUDA World. The system belongs to the United Nations Conference on Trade and Development (UNCTAD), and therefore it has a level of automation that is up to the required international standards. Currently, users are registered by customs staff and then the username and password will be issued to the user with the requirement to change its existing password. The challenge is that there is no electronic port system in the Marine Department, and the Immigration Department to capture data of inbound and outbound electronically, and for easy interface, integration and/or interoperate with the ASYCUDA World, due to the lack of government budget allocations. However, the advantage is that the Customs Department now has the opportunity to provide electronic solutions for e-port systems, e-licence systems, e-certificate systems and others for them to easily integrate, interface and/or interoperate.

Information and communication technology infrastructure

In Tuvalu, Internet service is available at all border posts, and the ASYCUDA World is accessible throughout Tuvalu via the Internet. There are several actions that need to be taken in the ICT infrastructure in Tuvalu to achieve a fully paperless trade environment. These include: the implementation of a policy for disaster recovery plan at the national level; the establishment of a business recovery plan for paperless trade systems; and the establishment of an information technology security policy such as cybersecurity. Most importantly, there is a need to significantly increase the speed and bandwidth of the Internet service available across the country, to seamlessly achieve a successful cross-border paperless trade and data exchange in Tuvalu.

Security

Tuvalu has a National ICT policy that is currently in the drafting stage, but it does not specifically cover ICT security in detail. However, there is a cybersecurity policy that is currently under implementation and which covers all the ICT security needed for paperless trade initiatives at this time.

Business process re-engineering, data harmonization and standardization

The Government of Tuvalu has conducted business process re-engineering, data harmonization and standardization, via the adoption of ASYCUDA World, which uses international standards and codes developed by ISO and WCO.

Capacity-building

There have been awareness programmes and/or capacity-building workshops, conducted by the Customs Service during the introduction of ASYCUDA World. However, more needs to be done with the trade community stakeholders and the public on a national Single Window and how it benefits businesses and the country as a whole.

Others

Private sector stakeholders from the trading community in Tuvalu have medium computer literacy as some have automated systems for their business activities. Even though ASYCUDA World was introduced this year – 2022 – in Tuvalu, stakeholders of cross-border trade have quickly and seamlessly adapted to it and therefore ASYCUDA World now covers 100% of customs clearance. However, it is noted that stakeholders of cross-border trade as a whole do not fully understand the concept of a Single Window and therefore more awareness programs are needed on the Single Window in the country. Hence, it will increase their support for the introduction of a national Single Window shortly.

B. National status toward cross-border data exchange

Electronic systems and Single Window system

There are no cross-border data exchange initiatives with selected partner countries and the Department of Customs via the ASYCUDA World. However, ASYCUDA World being an UNCTAD system is capable of all cross-border data exchange needs. The Customs Department is planning implementation or enabling of cross-border data exchange functions in their existing ASYCUDA World, and to fully utilize them shortly with adequate policies and procedures in place. The main challenge for the department is the lack of support from the Government in financing such initiatives or actions in its annual budgets in the past.

Business process re-engineering, data harmonization and standardization

Re-engineering and streamlining business processes of several agencies has led to automation and simplification, and therefore has enabled these agencies to engage in initiatives and pilot projects supporting cross-border data exchange, like the ASYCUDA World that was introduced in early 2022.

International transit

International transit is limited as the only cargo vessel that comes to the country does so via Fiji and Kiribati. However, according to Tuvalu Post Limited, it has inbound and outbound transit mails that were very high in number before COVID-19 and appear to have decreased during the pandemic.

Other matters

The level of compliance of traders in Tuvalu is high. There is no authorized economic operator scheme implemented in the country; however, it is currently under consideration. Last, the Government of Tuvalu has a limited budget provision for the transition to cross-border paperless trade and data exchange, and therefore funding assistance from donor partners is very much needed.

III. Legal readiness for cross-border paperless trade

Key findings on Tuvalu's legal readiness for cross-border paperless trade are summarized below. The findings are presented following the structure of the Legal Readiness Checklist adopted by the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation, at its fifth meeting.⁸ The completed checklist, which contains further details and elaborations, is available in Annex IV of this report.

Tuvalu currently has no specific legal framework for cross-border paperless trade. The existing laws which recognize electronic elements are minimal and are not up to the standards required to enable cross-border paperless trade to fully function and be recognized by international trade markets. Current provisions recognize electronic documents and declarations that reflect some of the standards in the international convention to which Tuvalu is a party, notably the *Revised Kyoto Protocol on the Harmonization of Customs Procedures*. However, there are no legal provisions for other relevant electronic elements required to enable cross-border paperless trade, such as electronic transactions and communications, data protection and privacy, cross-border exchange of trade-related information in electronic form, consumer protection, and alternative dispute resolution mechanisms.

Tuvalu's main trade market is the Asia-Pacific region. Therefore, most of its trade agreements are regional-based, i.e., the Pacific Island Countries Trade Agreement (PICTA), the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA), the Cotonou Agreement, and the Pacific Agreement on Closer Economic Relations Plus (PACER Plus). The recently joined PACER Plus requires member countries to have systems that support electronic customs transactions and requirements for information received between parties to the Agreement. This will also require upgrading of the Tuvalu laws to comply with the prescribed obligations. The lack of trade with international markets has left Tuvalu with huge gaps in membership in the relevant international agreements.

Nonetheless, progress is slowly taking place, including the recent accession to the Framework Agreement on the Facilitation of Cross-border Paperless Trade in Asia and the Pacific and the United Nations Convention on the Use of Electronic Communications in International Contracts (2005) in December 2022, which will complement cross-border paperless trade laws in Tuvalu. Also, as the legal landscape is slowly evolving, it is hoped that domestic law – and the commercial and regulatory practices it supports – will be enhanced and will evolve to accommodate international trading obligations in their transition to paperless procedures. Tuvalu should follow global or regional best practices

⁸ Cross-border paperless trade: A legal readiness checklist. Available at <https://readiness.digitalizetrade.org/files/documents/legal-readiness-checklist.pdf>

on e-communications that will help to harmonize its legal regime with that of its trading partners.

A. Electronic transactions

Electronic transaction law – general principles

Tuvalu currently has no general electronic transactions law that contains internationally recognized criteria such as technology neutrality and functional equivalence.⁹ Such criteria will assist the facilitation of cross-border paperless trade in ways highlighted in box 2 below.

The existing laws that provide for electronic elements are purpose specific and fall short of international standards and best practices regarding electronic transactions. Specific provisions include telegraphic transfers of money under the Tuvalu Post Act (TPA), telegraphic and electronic transactions used in the commission of crimes under the Proceeds of Crimes Act (PCA), enabling provision for electronic banking under Banking Commission Act (BCA), and general contracts under the Carriage of Goods by Sea Act (CGSA), the National Bank of Tuvalu Act (NBT Act), and the Development Bank of Tuvalu Act (DBT Act).¹⁰

The customs law, particularly the CRBPA, defines documents, declarations and publications as including those in electronic form. This generally recognizes the use of one or the other in trade-related procedures and practices. However, there are no special paperless trade rules specific to the use of electronic communications for electronic transferable records such as a bill of lading, certificates of origin, invoices and phytosanitary certificates.¹¹

Progress is underway to develop e-commerce laws as part of the recommendations under a *Rapid e-Trade Readiness Assessment* carried out in 2019.¹² A gap analysis of the e-commerce regulatory framework was completed in 2021 and has identified the need to develop a package of e-commerce laws, which will include electronic transactions, consumer protection, data security, and cybercrime in line with the typology adopted by UNCTAD. This development also complements e-commerce priority under the Government of Tuvalu's recent ICT Policy.¹³

⁹ E-Commerce Regulatory Gap Analysis, 2021, Department of Trade, Government of Tuvalu.

¹⁰ Consolidated responses to questions in the technical and legal checklists are in Annexes III and IV.

¹¹ Customs Revenue and Border Protection Act; Available at https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0015/CustomsRevenueandBorderProtectionAct2014_1.pdf

¹² Tuvalu Rapid e-Trade Readiness Assessment, 2019; Available at [tuvalu_rapid_etradereadiness_assessment.pdf](https://tuvalu-rapid-etradereadinessassessment.pdf) (enhancedif.org)

¹³ ICT Policy

Box 2: Legal regime favourable to cross-border electronic transactions

A legal regime that supports domestic electronic transactions could help Tuvalu in its international dealings in several ways:

First, in a legal regime generally favourable to electronic transactions, businesses, consumers, and Governments will all become familiar with the characteristics of e-communications, both the risks and the advantages. As a result, getting all parties to take similar approaches to cross-border transactions, and the supporting approvals and verifications, will be less of a challenge. Second, potential trading partners, or current trading partners considering whether to dispense with paper in dealing with Tuvalu, will find it easier to decide positively if the legal regime they find in the country is familiar and principled. Thus cross-border paperless trade will be facilitated.

Third, the national internal economy will benefit in the same way as cross-border trade is expected to benefit as it goes paperless.

Fourth, it will be more economical to institute a legal regime to support international trade if it has much in common with the domestic regime. It is not to create a special system for cross-border relations.

Electronic signature and trust services

Reliable authentication is needed for the functioning of any type of electronic communication (box 3). The use of electronic signature and trust services are types of authentication methods that are sufficiently reliable in any e-communications, including communications in cross-border paperless trade. Tuvalu does not have general electronic signature laws that apply across the board, nor do existing laws with provisions on electronic signatures contain internationally recognized criteria.¹⁴ The current laws, such as the CRBPA and CPC, only recognize electronic signatures used for delegation of authority. There are no expressed special rules for electronic signatures in paperless trade.¹⁵ Electronic signature laws will be included in the development of the E-Commerce package of laws as endorsed by the Government under the E-Commerce Regulatory Framework Gap Analysis.¹⁶

¹⁴ E-Commerce Regulatory Gap Analysis, 2021, Department of Trade, Government of Tuvalu

¹⁵ CRBPA. Available at https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0015/CustomsRevenueandBorderProtectionAct2014_1.pdf

¹⁶ Consultation, Department of Trade, Government of Tuvalu.

Box 3: Treatment of electronic documents, messages and signatures in Tuvaluan law

Some authorities distinguish between an electronic document (i.e., one that needs human review to have an effect, such as a word-processed or PDF document, and an electronic message (i.e., one that can be read by a computer and be given effect directly by it, such as an XML document or a web order form). Electronic commerce includes information in both forms. Although Tuvaluan law does not do so, it is possible to separate the criteria for a valid electronic document from those for a valid electronic signature.

The UNCITRAL Model Law on Electronic Commerce of 1996¹⁷ provides that where the law requires information to be in writing, that requirement is satisfied if the information in electronic form is “accessible to be usable for subsequent reference”. This standard is reflected in the Tuvaluan requirement that the document has not been changed – or at least that there is no strong evidence that it has been. While this provision is worded in the language of access, it must logically imply integrity as well – it is “the information” and not some part or distortion of it that is to be available.

Privacy and data protection

Tuvalu currently has no general law on privacy and data protection that applies across the board. Privacy and data protection are addressed in specific statutes. The Constitution provides the basic law for the privacy of property, while other statutes contain purpose-specific provisions, including (a) the banking laws, which protect paper-based banking and customer information, (b) the Copyright Act, which protects infringement of copyright work, (c) the PCA which protects paper-based information of businesses that are subject to the Price Control Authority, and (d) the CRBPA, which restricts disclosure of protected information without the consent of the prescribed authority.¹⁸ The CRBPA defines protected information as information that comes to the knowledge or into the possession of a customs officer or authorized person while they are performing their duties.¹⁹

Transfer of data abroad is addressed across various specific laws, the most relevant for paperless trade being the CRBPA. The CRBPA permits the disclosure of protected information to agencies of a foreign government and international organization on the

¹⁷ Online at http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/1996Model.html. For writing requirements, see article 6.

¹⁸ Customs Revenue and Border Protection Act; Available at https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0015/CustomsRevenueandBorderProtectionAct2014_1.pdf

¹⁹ Customs Revenue and Border Protection Act, section 15; Available at https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0015/CustomsRevenueandBorderProtectionAct2014_1.pdf

condition that the protected information will not be used or further disclosed for purposes other than that for which the disclosure is authorized under the Act. The CRBPA does not expressly provide any special rules on privacy and data protection for paperless trade.²⁰ The Revised Kyoto Protocol for harmonization of customs procedure to which Tuvalu is a member provides standards relating to the confidentiality of information obtained about documentary evidence of origin. However, this standard is not specifically addressed in the CRBPA.²¹ Other Agreements which provide for privacy and data protection are regional agreements to which Tuvalu is a party including the PICTA and PACER PLUS.

There is no requirement for data localization under the existing laws.

Cybercrimes applicable to paperless trade are not expressly addressed under the current laws of Tuvalu. Certain laws such as the PCA and Mutual Assistance in Criminal Matters Act (MACM Act) recognize offences committed using electronic means and the procedures for cross-border transfer of evidence via electronic documents. However, they do not stipulate most of the internationally recognized cybercrime offences, particularly those under the relevant international Budapest Convention from which Tuvalu is developing its Cybercrime law. The Cybercrime law is expected to be completed together with the package of electronic commerce laws that the Government is developing.²²

Data sharing

Paperless trade systems are often built around the notion of a Single Window for Customs operations, which involves a central agency collecting trade-related data and documents, and sharing them among participants. This process raises delicate issues. Besides general rules on privacy, data protection, and data retention, specific legal texts may address data sharing, especially among public entities. Tuvalu currently has no Single Window customs system. The Government is in the process of developing the ASYCUDA system that would enable a Single Window system and the facilitation of paperless trade. However, there is no identified formal agreements or policies in place for the coordination of data sharing among the participating government agencies.

Data retention

The legal effect of electronic records often depends on their evidentiary value, which is the ability to use those records before a court to substantiate a legal claim. The CRBPA requires a licensee, importer and exporter to keep records in Tuvalu for a period not

²⁰ Customs Revenue and Border Protection Act; Available at https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0015/CustomsRevenueandBorderProtectionAct2014_1.pdf

²¹ Customs Revenue and Border Protection Act; Available at https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0015/CustomsRevenueandBorderProtectionAct2014_1.pdf

²² E-Commerce Regulatory Gap Analysis, 2021, Department of Trade, Government of Tuvalu

exceeding five years.²³ Customs must keep a record for five years of every transmission sent to, or received from a registered user using a Customs computerized entry processing unit.²⁴ Records and documents include those in electronic form and any electronic publication. The Public Records Act requires that all public records of age 5 years or over (other than those which under any Act are required to be held in the custody of a specified person or Government office) must be deposited in the Archives office.²⁵ This includes records stored electronically as “public records”, which is defined as all documentary records of any kind, nature and description used in legislative, administrative, and executive transactions. There are no centralized data centers in Tuvalu. The Government has recently moved to save data in the computer cloud; however, there are no laws in place to regulate its use, access to it, and liability issues relating to it. The Government is moving towards developing an e-commerce package of laws that would upgrade laws about data retention.

Electronic evidence

Documents that are evidence of the commission of an offence are admissible as evidence in any Court. Customs records of computer transmissions are also admissible in all Courts, including a printout of an extract of a record kept by the Customs computerized entry processing unit and any documents made in a foreign country.²⁶ Electronic documents may be adduced as evidence by the PC Act. Similarly, any evidence obtained through electronic means under the MACM Act is also admissible as evidence in the Courts. Any physical and electronic evidence or documents made in a country outside Tuvalu that are generated under the Customs law may be made admissible by the Court as proof of any fact in the issue.

B. Paperless trade and Single Window systems

Establishment of a paperless trade system

Establishing and operating a paperless trade system often requires a set of dedicated laws and regulations. Currently, there is no Single Window system in place in Tuvalu. The Government is working on the initial phase of establishing the ASYCUDA, which will enable the development of a Single Window system in the future. The ASYCUDA is established under a provision of the CRBPA related to a computerized entry processing system, which provides the minimum procedure for registration of users and restrictions

²³ CRBPA, section 97

²⁴ CRBPA, section 130

²⁵ Public Records Act 1979, section 7

²⁶ CRBPA, section 245. Available at https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0015/CustomsRevenueandBorderProtectionAct2014_1.pdf

on access to the unique user identifier.²⁷ There appear to be no defined rights and obligations of the participants under the enabling section of the CRBPA. However, the CRBPA empowers the Director to make rules and the Minister to make regulations for the administration of the Act.

At present, the ASYCUDA system uses both hard copy and e-copy. It also aims to facilitate online payments when the Tuvalu banks upgrade to Internet banking. The Customs Department, which is the focal point office, hopes to interface the ASYCUDA with a Single Window system in the future. The current participants of the ASYCUDA are the Department of Customs, brokers, Department of Agriculture, Quarantine and Bio-Security, Ministry of Health, Department of Immigration and Marine Department. There is no legal basis, such as an agreement or a policy regulating the network of participants. Currently, the ASYCUDA is still a work in progress, with plans to formally establish and coordinate rules and procedures around its use and the establishment of a, Single Window system in the future.

Quality of information exchanged with the paperless trade system

The main function of the paperless trade system, including the Single Window, is to facilitate the exchange of trade-related data and documents in electronic form. The information is originally submitted on paper or electronically by commercial operators that must make complete and correct statements. Moreover, in an electronic environment, there could be special procedures to attribute the declarations originating from the various participants. Electronic signatures may play a significant role in the attribution of declarations. Tuvalu Customs law has no dedicated provision attributed to paperless trade or the exchange of data and documents in electronic form. Documents are treated the same way whether they are electronic or on paper. However, the general rules still fall short of internationally recognized standards on trade-related data and documents in electronic form. It is, therefore, worth reviewing the laws to ensure they are upgraded to provide a legally recognized paperless trade legal regime.

Service-level agreements and memorandums of understanding

Service-level agreements, memorandums of understanding, end-user agreements and other contractual agreements are relevant to the operation of a paperless trade system. These legal texts define the obligations of the participants in the paperless trade system. Currently, the Government of Tuvalu has no service-level agreement or any memorandum of understanding that governs paperless trade.²⁸

²⁷ Consultation with Customs Office.

²⁸ Consultation with stakeholders.

C. Cross-border aspects

International agreements relevant to cross-border paperless trade facilitation

Tuvalu's cross-border aspect of paperless trade is largely dependent on bilateral and multilateral trade agreements with other countries. Currently, Tuvalu's main trade market is the Asia-Pacific region as it continues to face difficulties in integrating into international markets. Tuvalu is a State that is party to only one international agreement relevant to paperless trade facilitation, and that is the *Revised Kyoto Convention on the Harmonization of Customs Procedures (RKCHCP)*, which provides standards for the optimal use of information technology with specific reference to an electronic document, declarations, payments and information exchange.²⁹ Although Tuvalu is not a party to most of the principal international agreements listed in the legal checklist under Annex IV of this report, the domestic laws – particularly CRBPA – provide a flexible and enabling legal framework for an integrated agency approach to border management, trade and travel facilitation, trade security framework and general recognition of the need to comply with international conventions; instruments; standards, protocols or obligations.³⁰ The recent Cybercrime draft law is based on the CCCE (Budapest Convention, 2001) although Tuvalu is not a party to CCCE. There are no contracts used to provide for mutual recognition of electronic communications and signatures.

International standards, guidelines and recommendations

Other than international agreements, there are international standards, guidelines and recommendations that are available for countries to adopt without entering into an Agreement with other countries. Some of the generally accepted standards for cross-border paperless trade are highlighted in the CEFAC, ESCAP standards, and the ISO standards. Currently Tuvalu has not adopted any of the International standards, guidelines and recommendations.

Bilateral and regional

Tuvalu is a member of the following regional trade agreements:

- Pacific Agreement on Closer Economic Relations Plus (PACER PLUS). The PACER PLUS contains provisions that require member countries to have a system that supports electronic Customs transactions and requirements for information received between parties to the Agreement;³¹
- Pacific Island Country Trade Agreement (PICTA);

²⁹ The Revised Kyoto Convention is described here: <http://tfig.unece.org/contents/revised-kyotoconvention.htm>. A guide to its provisions is here: <https://www.wcoesarocb.org/wpcontent/uploads/2018/07/1.-WCO-Revised-KyotoConvention.pdf>

³⁰ CRBPA, section 4.

³¹ Pacer Plus scoping report, Chapman Trip, Department of Trade, Government of Tuvalu.

- European Union – Pacific Interim Partnership Agreement (IEPA); South Pacific Regional Trade and Economic Co-operation Agreement (SPARTA).

D. Other considerations

Ownership of information in the paperless trade system

The most relevant law that defines rights regarding information exchange in the paperless trade system is CRBPA. Although the Act does not single out the paperless trade system, it has built-in rights and obligations for persons under its regulation. Rights are tied to ownership or to those with control or power of disposition over the goods. An “owner” is defined under CRBPA as any person being or claiming to be the owner, importer, exporter, consignee, agent, buyer or person possessed of or beneficially interested in, or having control of or power of disposition over the goods. The rights of the owner under CRBPA are provided for in various transactions, including infringement rights of owners about counterfeits, rights to confidentiality of protected information, and unauthorized disclosure and access. The Act is clear also on the conditions for disclosures. In addition, contractual agreements normally would prescribe the rights of owners per se in specific trade transactions.

Liability issues

There is no one legal source of rules for contractual liability in Tuvalu. Liability provisions are spread across various statutes and are purpose-specific. As such, CRBPA contains the most relevant provision on the liability of persons interacting with the trading system including agent-principal liability, customs broker liability, the liability of the person making payments, and liability of importer exporter, or licensee leaving Tuvalu to pay duty.³² In the absence of a specific statute, contractual liabilities are subject to agreements and general rules on civil liability. The general rules are the same in most countries; the person who causes harm by fault must compensate the person harmed, with limits to certain public bodies as provided in box 4.

³² CRBPA, Part 12, sections 102, 109 and 236.

Box 4: Functions of civil liability

Civil liability has two functions: first, to provide compensation for those who have been harmed by others' faults (of commission or omission); and second, to provide an incentive, through the risk of having to pay such compensation, to avoid faulty conduct. It can play a role, therefore, in the design of paperless cross-border trade.

The questions are complicated for cross-border trade because many participants in the system are public bodies, either direct parts of government, like Customs services, or bodies performing public functions, such as inspection laboratories.

In principle it may be thought that the State should be liable to some extent for its failings, at least to provide basic compensation. On the other hand, State actions often contain or respond to public policy challenges that do not have a single right answer against which the law can apply a standard of fault. Thus, the potential liability of State actors is often either nullified or limited by law. The effect of such limitations on the other participants in the activity needs to be taken into account in evaluating their implications.

In cross-border trade, the picture is further complicated by the necessary participation of legal persons outside the country – exporters or importers, brokers, and State agencies in the country of origin or destination of the goods and possibly in States of transit as well. Imposing liability on those persons can be difficult, even if the law is clear in theory. If the risk of liability were too great, they might choose not to trade into the country at all.

Dispute settlement

The laws related to trade do not provide any choice of forum and law relevant to paperless trade facilitation nor are there any dispute resolution mechanisms in place for paperless trade facilitation. However, there are rules of practices in place where general commercial transactions are extended in their scope to transactions in cross-border paperless trade contracts.

Electronic payments and transferable records

Electronic payments are the backbone of the digital economy. To the extent that electronic payments are available, they could be incorporated into the paperless trade system. Tuvalu currently has no paperless trade system in place and the banks are still operating with paper banking. There are plans to eventually upgrade the system to online banking and payments. Until such time, ASYCUDA that is being developed will be operating on telegraphic transfers only.

In addition, ASYCUDA is being developed to accept electronic transferable records. Electronic records are recognised under the CBRP Act, which may be presumed to include transferable records, both physical and electronic. However, the need still remains

to clearly express the legal recognition of electronic transferable records in line with international best practices and laws.

Competition law

Tuvalu has no comprehensive competition law. However, Tuvalu has laws that impose price controls on specific commodities and the ability to establish protected industries. In addition, most of the essential services in Tuvalu are delivered by State-Owned Enterprises (SOEs), including banking, electricity and telecommunications. Legislation establishing these entities contains some provisions that could be said to relate to issues of competition and consumer protection. There are also other regulated industries that contain miscellaneous provisions touching on competition and consumer protection. There is no specific reference to paperless trade services and the selection of such services on a competitive basis.

IV. Recommendations for moving towards cross-border paperless trade

A. Recommendations emerging from the technical readiness assessment

To improve its domestic paperless trade environment and its readiness to participate in cross-border paperless trade, it is recommended that Tuvalu gradually develop a national Single Window and other paperless trade systems such as e-ports, e-certificates, e-licences that are interoperable within and across borders, including by developing its national technical capacity in this area as well as a long-term plan and engaging in pilot exchange of selected data and documents. However, in doing so, it is foremost recommended that the Government supports a fast improvement of ICT infrastructure and security in the country.

Institutional and governance bodies

Recommendation 1: Tuvalu should enhance its commitment to cross-border paperless trade facilitation and participate in intergovernmental agreements that can establish a higher level of political commitment which helps the country to take necessary actions for creating a paperless trade environment.

Recommendation 2: Tuvalu should further strengthen the institutional mechanisms coordinating stakeholders of paperless trade, building upon the existing National Trade Steering Committee and the National E-commerce Committee. In addition, the Committee should ensure a fair representation of private sector stakeholders from the trading community, to ensure that they are well informed and that their activities are aligned with the overall directions and policies.

Level of automation

Recommendation 3: Tuvalu should make relevant regulatory agencies such as the Marine Department, Immigration Department, Agriculture Department, and Government Treasury, ICT-enabled as soon as possible to empower them to participate in paperless trade. While some agencies are ICT-enabled, other government agencies involved in the trade are still paper-based in processing their regulatory procedures. Although the automation of Customs procedures greatly facilitates trade, businesses cannot optimize their operations if they have to go through manual processes in completing other trade-related regulatory requirements.

Recommendation 4: Tuvalu should support the introduction of a national Single Window urgently and get more awareness for the trade stakeholders and the public as a whole of a Single Window environment. While it is valuable if all trade-related regulatory procedures are automated, it would still be burdensome for businesses if they have to go through different channels to meet different regulatory requirements. Creating a single

channel for businesses to meet all the regulatory requirements can greatly enhance their efficiency.

Information and communication technology infrastructure

Recommendation 5: Tuvalu should seek more funding for the fast improvement of ICT infrastructure, specifically in terms of fast Internet connection and higher bandwidth which includes connecting to the global network via optic fibre, and ICT security in terms of policies that cover all needs of paperless trade and data exchange.

Recommendation 6: Tuvalu should implement a strategic plan and guidelines on business continuity of ICT systems (including for paperless trade systems), such as a disaster recovery plan, business recovery plan and investment in local ICT experts, to ensure service continuity and sustainability of such systems. This should reflect future requirements such as device and technology upgrades as well as ease access to maintenance. Tuvalu should also invest more in its human resources in the ICT sector, and construct an in-country Data Centre to cater to the increasing need for storage and easy transmission of data within the country.

Recommendation 7: Tuvalu should establish and publish relevant ICT security policies such as the National ICT policy, cybersecurity policy, online consumer and produce protection, and anti-money laundering and online fraud.

Business process re-engineering

Recommendation 8: Tuvalu should carry out business process re-engineering in implementing or upgrading ICT systems of trade-related regulatory agencies, utilizing international recommendations on ratified agreements such as PICTA and PACER Plus, as well as from standardized trade organizations such as WCO and ISO. In this way, business and operational procedures can be optimized, rather than simple automation of existing processes.

Data harmonization and standardization

Recommendation 9: Tuvalu should start participating in electronic data harmonization by upgrading the ICT systems of trade-related regulatory agencies, taking into consideration national and international standards, such as those recommended by WCO and ISO. In this way, Tuvalu's paperless trade systems can increase their interoperability and would be able to exchange electronic data more readily with each other and with systems of other countries.

Capacity-building

Recommendation 10: Tuvalu should conduct more awareness and capacity-building programmes for domestic and cross-border paperless trade with stakeholders. Tuvalu could seek support from the United Nations and other international development

agencies, in a coordinated manner in the planning and delivery of capacity-building activities.

Recommendation 11: Tuvalu should establish a business incubator programme that includes capacity-building programmes on successful business operation skills not limited to basic ICT skills, bookkeeping, marketing, negotiating, financing, and human resources management.

International transit

Recommendation 12: Tuvalu should look at ways of making international shipping and flight both inbounds from at least two countries but not only from one country - Fiji. Having international shipping and flight inbound only from Fiji hinders a lot of trading opportunities for local businesses.

Other matters

Recommendation 13: The Government of Tuvalu should set a strategic plan to secure budgets for implementing ICT systems of trade-related regulatory agencies, including assessing the requirements of those agencies, for coordinating potential sources of budget, and outreach to international development agencies.

Recommendation 14: Tuvalu should continue to actively participate in bilateral, subregional, regional and global initiatives on cross-border paperless trade, such as the recently joined CPTA. In this way, Tuvalu would benefit from accelerated progress supported by increased opportunities for capacity-building through training, workshops and knowledge-sharing platforms as well as easier access to information, knowledge and resources.

Recommendation 15: Tuvalu should consider an Authorized Economic Operator and conclude a mutual recognition agreement with main trading partner countries to improve the level of trust in Tuvalu traders, which could help initiate cross-border paperless trade.

Recommendation 16: Tuvalu should proactively participate in the joint inspection and sharing (recognition) of results electronically among relevant regulatory agencies as well as with trading partner countries via the trading agreements that it has ratified, i.e., PICTA, and PACER Plus.

B. Recommendations emerging from the legal readiness assessment

To improve its domestic legal environment for paperless trade and its legal readiness to participate in cross-border paperless trade, it is recommended that Tuvalu should proactively join relevant international agreements and incorporate relevant international legal standards/regulations/guidelines into its legal frameworks. Recommendations related to key areas covered during the legal readiness assessment are given below.

Electronic transactions and signatures law

Recommendation 1: Tuvalu should develop and harmonize laws to accommodate electronic transactions and signatures. Specifically, Tuvalu should consider the following options:

- (a) Consider explicitly providing for technological neutrality, since more flexibility is needed for signatures, especially in non-official contexts, and more clarity is needed with regard to the implications of secure signatures;
- (b) Consider explicitly establishing requirements for functional equivalence between paper-based documents and electronic communications; or
- (1) Consider making laws that fully recognize electronic communications as directly meeting requirements for documents, writing, signature etc.

In this process, attention may be given to the work of UNCITRAL in this field, especially the United Nations Convention on the Use of Electronic Communications in International Contracts – the principles of the Convention can also be used in domestic law.

Paperless trade and Single Window laws

Recommendation 2: Tuvalu should provide a legal basis for establishing and operating a Single Window for cross-border trade and for creating a paperless trade environment. Such a legal basis can be provided by revision of existing laws or by enacting new laws. One comprehensive new statute may be the cleanest and clearest route to reform. The essence of this set of laws is to authorize and frame the electronic exchange of information among all public sector and private sector participants in the trade. See Recommendation 8 in this regard.

Recommendation 3: Tuvalu should upgrade or develop laws on information security, cybercrime and privacy as well as laws/regulations establishing requirements of accuracy and integrity of data submitted and processed for paperless trade. It may be that existing laws of general application will serve these purposes, but that examination needs to be undertaken and any gaps filled.

Cross-border aspects

Recommendation 4: Tuvalu should accede to Conventions to which it is not a party in order to enable it to gain access to the opportunities provided by these instruments. These Conventions include:

- (a) World Trade Organization Agreement on Trade Facilitation (2013); and
- (b) Convention on Cybercrime of the Council of Europe (Budapest Convention) (2001).

Recommendation 5: Tuvalu should continue to be willing to make bilateral or regional agreements as well as those promoted by global bodies, as required. This can provide it with practice in supporting paperless communications for trade elsewhere.

Recommendation 6: Tuvalu should proactively consider how to incorporate relevant international legal standards, regulations, and guidelines into its legal frameworks. In doing so, it should take the opportunity to share the knowledge of the benefits of such standards throughout the public sector, so agencies across the Government recognize opportunities to go electronic. (A special effort may be useful for internal legal advisors so that, they give consistent informed advice on such questions.) Some international legal standards/regulations/guidelines that Tuvalu has not yet expressly incorporated, but could be beneficial include:

- (a) UN/ECE CEFACT Recommendation 33 on the establishment of a Single Window;
- (b) UN/ECE CEFACT Recommendation 35 on the legal status of a Single Window;
- (c) UN/ECE CEFACT Recommendation 36 on interoperability of cross-border systems;
- (d) UNNExT guidelines on Paperless Trade and Single Windows.

Other considerations

Recommendation 7: Tuvalu should establish the criteria for the liability of parties involved in cross-border paperless trade as well as for the liability of intermediaries regarding the information and data passing through their systems. This may allow for some private contractual disclaimer of liability, subject to statutory or regulatory limits. The principle should be maintained that harm is repaired by the person who caused it, unless good reasons of public policy require an exception – in which case, the fact of the exception should be made clear as well. However, it may be necessary to study the kinds of responsibilities that can arise and the kinds of harm that can be done, and to build safeguards, before a full liability regime can be instituted.

Recommendation 8: Tuvalu should set out how the choice of forum and of law issues relevant to paperless trade facilitation is determined in its laws. Considerable latitude may be given to the disputing parties to make their own decisions on both questions.

Recommendation 9: Tuvalu should consider establishing laws defining who owns the data in a cross-border paperless trade system and how the data can be used.

Recommendation 10: Tuvalu should ensure that its laws allow electronic payments for all purposes and among all participants in international trade transactions. These laws may include appropriate security and authentication practices.

Recommendation 11: Tuvalu should build awareness and capacity of legal issues of (cross-border) paperless trade for its stakeholders, especially those who are involved in handling legal aspects, including understanding the implications of joining international agreements. Tuvalu may seek support from the United Nations and other international development agencies, in a coordinated manner, to avoid duplication of advice in planning and delivering capacity-building activities.

V. Tuvalu action plan for cross-border paperless trade

This section features an initial national action plan, based on the “Individual Action Plan” template developed by the Working Groups of the Interim Intergovernmental Steering Group on Cross-Border Paperless Trade Facilitation. The plan features Indicative actions that could be undertaken by Tuvalu to implement the technical and legal recommendations presented in the previous section. The action plan includes (a) priority level, timeline, capacity-building needs and potential key agencies related to each indicative action, based on discussions held during the national consultation workshop on facilitating cross-border paperless trade held on 10-11 November 2022 in Funafuti, Tuvalu³³, and (b) the knowledge acquired by and the experience of the expert team. Indicative actions as well as other information included in this initial action plan may be further elaborated upon – e.g., activities may be further broken down into sub-activities and tasks; and type of capacity-building needs may be specified and incorporated into other relevant national development plans (e.g., Tuvalu National Trade Development Strategy 2022-2026, national e-commerce strategy or e-government plan).

Part 1: Technical aspect

Institutional and governance bodies				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
1. Enhancement of Tuvalu’s commitment to cross-border paperless trade facilitation and participation in intergovernmental agreements that can establish a higher level of political commitment.	High	2023	Yes	MFT MJFCA MOF Parliament
2. Strengthen the institutional mechanisms coordinating stakeholders of paperless trade, building upon existing National Trade Steering Committee and National E-commerce Committee, and ensure a fair representation of private sector stakeholders from the trading community.	Med	2023	Yes	DOC MOF NTSC, relevant stakeholders
Automation				

³³ The list of participants in the consultations is given in Annex II.

Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
3. Build systems for relevant regulatory agencies such as Marine Department, Immigration Department, Agriculture Department, and Treasury which makes them ICT-enabled.	Med	2024	Yes	Marine Department Immigration Department Agriculture Department MOF
4. Support the introduction of a National Single Window approach and conduct more awareness for the trade stakeholders and the public as a whole of a Single Window environment	Med	2023	Yes	MOF MFT
ICT infrastructure				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
5. Seek more funding for the fast improvement of ICT infrastructure specifically in terms of fast internet connection and higher bandwidth which includes ICT infrastructure which includes connecting to the global network via Optic Fibre, and ICT security in terms of policies that cover all needs of paperless trade and data exchange	High	2023	Yes	MOF MJFCA MFT
6. Implement strategy plan and guidelines on business continuity of ICT systems, including a disaster recovery plan, and business recovery plan at the national and agencies levels, and construct an in-country data centre.	High	2024	Yes	MJFCA MOF
7. Establish and publish relevant ICT security policies such as the National ICT policy, cybersecurity policy, online consumer and producer protection, and anti-money laundering and online fraud.	High	2023	Yes	MOF MJFCA

Business process re-engineering				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
8. Carry out business process re-engineering in implementing or upgrading ICT systems of trade-related regulatory agencies, utilizing international recommendations on ratified agreements as well as from standardized trade organizations such as WCO and ISO.	Med	2024	Yes	MOF MFT MJFCA
Data harmonization and standardization				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
9. Start participating in electronic data harmonization using international standards recommended by WCO and ISO.	Med	2024	Yes	MOF
Capacity-building				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
10. Conduct frequent awareness and capacity-building programs on domestic and cross-border paperless trade for stakeholders	Med	2023	Yes	MOF
11. Establish a business incubator programme that includes capacity-building programmes on successful business operation skills.	High	2023	Yes	MOF MFT MJFCA
International transit				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies

12. Make international shipping and flight both inbound from at least two countries but not only from one country - Fiji.	High	2023	Yes	MOF MJFCA MTET Parliament
Other considerations				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
13. Set a government strategic plan to secure budgets for implementing ICT systems of trade-related regulatory agencies.	High	2023	Yes	MOF MJFCA
14. Continue to actively participate in regional, subregional, and bilateral initiatives on cross-border paperless trade.	Med	2023	Yes	MFT MOF MJFCA
15. Establish an Authorized Economic Operator in the country.	Med	2024	Yes	MOF MFT MJFCA
16. Proactively participate in the joint inspection and sharing (recognition) of results electronically among relevant regulatory agencies as well as with trading partner countries via the trading agreements that it has ratified, i.e., PICTA and PACER Plus.	Med	2023	Yes	MOF MJFCA MFT

Part 2: Legal aspects

(Priority level: High, medium)

Electronics transactions and signatures law				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
1. Develop and harmonize laws to accommodate electronic transactions and signatures.	High	2023	Yes	DoT DoC, NEC NTSC OAG
Paperless trade and Single Window laws				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
2. Legal basis for establishing and operating a Single Window for cross border trade and for creating paperless trade environment.	High	2023	No	DoC DoT NTSC OAG
3. Upgrading or developing the laws on information security, cybercrime and privacy.	Med.	2023	No	NEC ICT OAG DoT

Cross-border aspects				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
4. Accession to Conventions, standards and agreements relevant to paperless documentation including: (i) World Trade Organization Agreement on Trade Facilitation (2013) (ii) Convention on Cybercrime of the Council of Europe (Budapest Convention) (2001)	High	2023	Yes	MJCFA OAG DOCR MOF

5. Actively engage in bilateral agreements and other trade agreements.	Med.	Ongoing	No	DOCR MJCFA MoF OAG
6. Adopting and harmonizing with international legal standards, regulations and guidelines.	Med.	Ongoing	Yes	MJCFA MFT OAG
Other considerations				
Indicative action	Priority level	Timeline	Capacity-building needs	Potential key agencies
7. Establishment of criteria of liabilities of parties involved in cross-border paperless trade, including the liability of intermediaries.	Med.	2023	Yes	DOCR MJCFA MoF OAG
8. Set out how the choice of forum and choice of law issues relevant to paperless trade facilitation is determined in the laws	High	2023	Yes	DOT OAG MOF
9. Establishment of law covering the ownership of cross-border paperless trade system and how the data can be used.	High	2023	Yes	DOCR MJCFA OAG NTSC
10. Ensuring a legal basis allowing electronic payments for all purposes.	High	2023	Yes	MOF DOT OAG
11. Awareness and capacity on building on legal issues of cross-border paperless trade for its stakeholders and other government agencies.	Med.	Ongoing	Yes	DOCR DOT NTSC OAG

VI. Conclusion and the way forward

Tuvalu is progressing forwards in the development and implementation of trade facilitation and paperless trade. However, much more remains to be done to further enhance trade efficiency in Tuvalu, in particular, by adopting the digitalization of trade procedures. In this report, findings from technical and legal assessments of the readiness of Tuvalu for cross-border paperless trade are presented, together with recommendations derived from these findings. An initial action plan has been formulated based on the experts' recommendations and inputs gathered during the national consultation. This provides a useful basis for the preparation by Tuvalu of an Individual action plan under the Framework Agreement on Facilitation of Cross-Border Paperless Trade in Asia and the Pacific.³⁴

The report highlights that Tuvalu has joined the Framework Agreement on 8 December 2022. This will assist significantly in the development and implementation of its trade digitalization strategy. The readiness assessment together with the action plan featured in this report can serve as a foundation to elaborate more detailed activities at the national and agency levels in this area, with identifiable timeline and budget sources. Additional meetings and consultations among stakeholders may be useful for further refinement and specification of actions and their sequencing to achieve the long-term goal of cross-border paperless trade – and to identify specific pilot projects as well as capacity-building and technical assistance needs.

³⁴ Under the Framework Agreement and the associated draft implementation roadmap, participating states would have to develop such individual action plans as part of implementing the Agreement, i.e., after the Agreement has entered into force and the Parties have agreed on a template as well as on a timeline for submission of the plans.

Annexes

Annexes I. List of stakeholders' interview

NAME	TITLE	EMAIL
Ms. Pula Haulagi	Chief Executive Officer Tuvalu Post Office	pulahaulagi@gmail.com
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Mr. Taasi Pitoi	Director Department of Marine and Ports	taasi.pitoi@gmail.com
Mr. Temumuni Talitiga	Customs Officer Department of Customs	temuxy@gmail.com
Ms. Sania Teisini	Director Department of Customs and Revenue	saniateisini@gmail.com
Mr. Darryl Ikbal	Project Coordinator Enhance Integrated Framework	dikbal@gov.tv
Mr. Tuilagi Teii	Project manager ASYCUDA Project	tuilagi2004@gmail.com
Ms. Petesa Finikaso	Director Department of Business and Consumer Protection	petesa.finikaso@gmail.com
Ms. Telupe Tepaukie	UN Desk Office Ministry of Foreign Affairs	ttepaukie@gov.tv

Annexes II. List of participants at the national consultation workshop



CROSS BORDER PAPER LESS TRADE READINESS ASSESSMENT STUDY – TUVALU VIRTUAL VALIDATION WORKSHOP 10-11 NOVEMBER 2022

	Name	Department/Ministry	Email
1	Ms. Tilou Kofe	CEO Tuvalu National Private Sector Organisation	taliatilou@gmail.com ; tnpso8@gmail.com
2	Ms. Lilian Tine	CEO Tuvalu National Council of Women	lfalealuga@gmail.com
3	Mr. Siose Teo	General Manager – National Bank of Tuvalu	siose.pteo@natbank.tv
4	Ms. Temukisa Pesega	General Manager – Development Bank of Tuvalu	famoemoega@gmail.com
5	Mr. Alapati Taupo	Chief Financial Officer – Tuvalu Telecom	alapati@tuvalutelecom.tv
6	Ms. Petesa Finikaso	Director of Business	pfinikaso@gov.tv
7	Ms. Sania Teisini	Director of Revenue & Customs	steisini@gov.tv
8	Mr. Falema Pita	Acting Trade Officer	fpita@gov.tv
9	Ms. Falemalu Malua	Australia High Commission in Tuvalu Officer	Falemalu.Malua@dfat.gov.au
10	Mr. Andrea Ibba	Pacific Islands Forum Secretariat	andrei@forumsec.org
11	Mr. Simon Hess	Enhanced Integrated Framework at WTO	simon.hess@wto.org
12	Mr. Sudip Ranjan Basu	UN ESCAP Sub Regional Office Pacific	basu@un.org
13	Ms. Soo Kim	UN ESCAP Bangkok Office	kim51@un.org
14	Mr. Patrick Tuimalealiifano	UNDP Program Manager Fiji	patrick.tuimalealiifano@undp.org
15	Ms. Andie FONG TOY	Head, UN ESCAP Subregional Office for the Pacific	
16	Ms. Rupa Chanda	Director -Trade, Investment and Innovation Division – ESCAP, Bangkok	
17	Mr. Alvin Mah	Consultant ESCAP	alvinckmah@gmail.com
18	Mr. Tuitala Lasifo	Technical Expert Tuvalu	tlasifo@gmail.com

19	Ms. Susana Kausea	Legal Expert –Tuvalu	sf03900@gmail.com
20	Ms. Lise Kalavi	Consultant – Tuvalu’s Review E Trade Readiness Assessment	finikasoconsultants@gmail.com
21	Mr. John Gregory	Consultant, ESCAP	john@euclid.ca
22	Mr. Tony Siamomua	Consultant- Tonga CPTA Assessment	siamomua@gmail.com
23	Mr. Dominic Leong	UNCTAD- Pacific E Commerce	leongd@unctad.org
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25	Mr. Sudip Ranjan Basu	Deputy Head, UN ESCAP Subregional Office for the Pacific	basu@un.org
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35	Ms. Amelita	Tuvalu – MFT	

Annexes III. Cross-border paperless trade: a technical readiness checklist: Tuvalu



Cross-border paperless trade: a technical readiness checklist
Version 1.0 as of 5 May 2020

Legal and Technical Working Group of the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation

Introduction

1. The checklist will help users to assess the degree to which the technical environment of their country is ready to support cross-border paperless trade, identify existing technical gaps, and design actions to improve the technical environment. The checklist will also help to raise the awareness of its users on technical issues in cross-border paperless trade.
2. The checklist is in the form of a questionnaire on technical issues and motivation factors in implementing paperless trade systems and cross-border data exchange. It is necessary to assess the status of paperless trade systems implementation at the national level before looking into readiness for cross-border data exchange. The checklist takes into consideration national issues such as the implementation of electronic and paperless transactions at the national level, and the importance of a single window for cross-border paperless trade data exchange. The questionnaire is structured into two sections: section A – paperless trade system at the national level and section B – national status towards cross-border data exchange.
3. Section A focuses on technical issues related to the implementation of electronic trade systems and a paperless environment at the national level. Technical issues are grouped into the following eight categories: (a) institutional and governance bodies for electronic data exchange in a paperless environment; (b) level of automation; (c) information and communications technology (ICT) infrastructure (connectivity, sustainability, and recovery); (d) security; (e) business process re-engineering; (f) data harmonization and standardization; (g) capacity-building; and (h) other matters.
4. Section B is aimed at assessing the ability of a country or an organization to embark on cross-border paperless trade data exchange. The questions are related to various issues and challenges in the implementation of paperless trade systems and cross-border data exchange. The answers to these questions will help to reveal the current status and assess the level of readiness to implement paperless trade systems and cross-border data exchange.
5. The questions in sections A and B may be answered by the relevant government personnel involved in trade facilitation and cross-border trade activities. It is recommended

that all relevant government personnel engaged in elements of paperless trade and key private stakeholders collaborate in completing the checklist.

A. Paperless trade system at the national level

<i>No.</i>	<i>Questions</i>	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
A1.	<p>Governance bodies³⁵</p> <p>One of the critical success factors for the implementation of paperless trade systems is a strong commitment from the Head of Government, without which many projects of this magnitude tend to stall. When top management is committed to spearheading a project, issues of financial support and access to other resources may be addressed more readily. Coordination among government agencies and between the government and the private sectors is not an easy task but it can be carried out more efficiently and effectively with the establishment of an institutional body equipped with a strong governance structure. The institutional setup provides a venue for relevant officials to come together to discuss functionalities and other technologies as well as legal matters. By establishing the role and responsibilities of each unit/group as well as reporting mechanisms, the governance structure expedites the implementation of paperless trade systems.</p>		
A1.1	Is there a governance structure established for paperless trade, (e.g. national trade facilitation council)?	<p>Yes, there are two governance structures established to support paperless trade. First, the National Trade Steering Committee (NTSC) was established in 2014 to advise and support the Government on trade initiatives and actions including policies that most effectively contribute to the country's sustainable development objectives.</p> <p>Second, the National E-commerce Committee (NEC) established in 2022 has a core objective to support paperless trade by assisting the implementation and monitoring of e-Trade activities set out in the Tuvalu e-Trade Readiness Assessment Report 2019.</p>	
A1.2	Does it include all the community partners/stakeholders (government and private sector)?	The majority of the NTSC and NEC consists of Government departments with the remaining few being from the private sector.	

³⁵ This is an issue of policy nature.

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
A1.3	Who chairs this governance structure?	The chair for the NTSC is the CEO of the Ministry of Trade and Fisheries, while the chair for the NEC is the Director of the Department of ICT.	
A2.	Level of automation It is not feasible for an organization or agency to consider implementing paperless trade systems without the ability to process electronic documents, information or data, let alone the subsequent cross-border data exchange.		
A2.1	Electronic systems		
A2.1.1	Has your country implemented electronic customs (and other services that facilitate customs declarations in an electronic format)? <i>If yes, please answer A2.1.1.1–A2.1.1.6.</i>	Yes, the only one used in the country is the UNCTAD Automated System for Customs Data (ASYCUDA World) for international trade and transport operations across Tuvalu.	
A2.1.1.1	Does it have the capability to receive, process and issue documents electronically?	Yes, the ASYCUDA world has the ability to receive, process and issue documents electronically.	
A2.1.1.2	Is it integrated with an electronic payment system?	No, ASYCUDA World in Tuvalu currently does not intergraded with an electronic payment system because the only two banks in Tuvalu – National Bank of Tuvalu (NBT), and Development Bank of Tuvalu (DBT) - do not provide any form of online payment at the moment.	The NBT is working on providing credit cards in year 2023. ASYCUDA World will integrate with the NBT online payment once it is ready.
A2.1.1.3	Does it have the ability to authenticate users electronically?	Yes. The Customs office will create users for Shipping Agent e.g NPDL agent; Freight Forwarders e.g DHL; Customs broker – those who deal with individuals' custom clearance; and Declarant – those who deal with businesses custom clearance. There is a total of about 50 external users – users that are not customs and the system staffs.	

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
A2.1.1.4	Does it ensure data/document security?	Yes, each type of user can only access the functions of the system that has been set for it role.	
A2.1.1.5	What is the percentage of trade covered under this system?	100%	
A2.1.1.6	Are community partners/stakeholders connected to it electronically?	An individual will select a Customs broker that will prepare it customs clearance document. A business will select or nominate a Declarant to prepare it customs clearance.	
A2.1.2	<p>Has your country implemented electronic port systems (including air, sea, road, rail, and inland ports)?</p> <p><i>If yes, please answer A2.1.2.1–A2.1.2.6.</i></p> <p><i>Invoice</i></p> <p><i>Bill of lading</i></p> <p><i>First page of – Ref of SAD</i></p> <p><i>Energy permit from energy –</i></p> <p><i>Certificate of origin – MFN – only if originated under country involved in the PICTA</i></p>	<p>No, there are currently no port systems implemented in the country. For instance, the Marine Department, and the Immigration Department both currently using papers and Microsoft Office (word and excel) to record their services and data.</p> <p>However, if there are electronic port systems in place, it will help reduce customs clearance processing time as documents such as manifest, etc. can be easily accessible or transferred. The customs clearance processing time may further reduce by the integration of electronic port systems with the ASYCUDA World.</p>	<p>Since, Tuvalu is in a digital transformation period, the Marine Department will soon consider a electronic port system for the country.</p> <p>In addition, the Tuvalu Immigration Department is currently considering procuring an electronic system that scans passport, track inbound and outbound cargoes and travellers, and that can be easily integrated with ASYCUDA World.</p>
A2.1.2.1	Does it have the ability to receive, process and issue documents electronically?		
A2.1.2.2	Is it integrated with an electronic payment system?		

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
A2.1.2.3	Does it have the ability to authenticate users electronically?		
A2.1.2.4	Does it ensure data/document security?		
A2.1.2.5	What is the percentage of trade covered under these systems?		
A2.1.2.6	Are community partners/stakeholders connected to it electronically?		
A2.1.3	Has your country implemented electronic licenses, electronic permits and electronic certificates? (Please fill out the appendix for this question.)	No. At the moment, licensing is processed using Microsoft Office (word, excel, etc.) and are issuing using papers or cards that does not have bar codes.	Currently, the Government is working on the digitization of citizenship and therefore electronic licenses, permits and certificates will follow.
A2.1.4	Has your country implemented any cross-border trade systems other than those specified above? <i>If yes, please answer A2.1.4.1–A2.1.4.5.</i>	No	
A2.1.4.1	Does it have the ability to receive, process and issue documents electronically?		
A2.1.4.2	Is it integrated with an electronic payment system?		
A2.1.4.3	Does it have the capability to authenticate users electronically?		
A2.1.4.4	Does it ensure data/document security?		

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
A2.1.4.5	What is the percentage of trade covered under these systems?		
A2.1.5	What is your country's targeted timeline to cover all trade transactions through these systems (i.e., e-customs, e-port, e-certificates, e-licenses, e-permits and others)?	The country is on its early stages of digital transformation and hopefully in the next 10 years there will be e-port, e-certificates, e-licenses, e-permits and others	
A2.2	Has a single window system been implemented in your country to expedite cargo movement/clearance and to facilitate the international trade supply chain? <i>If yes, please answer A2.2.1–A2.2.4. If no, please answer A2.2.5.</i>	ASYCUDA World is the main enabler of a single window system, but it is still on its first phase and some of its functions are yet not fully utilized like online payments. Even though, the country is very keen to have a single window as it will ease all trade processes, the main constraint is the limited Government budget allocation or fundings to implement it.	
A2.2.1	How does it receive data electronically, i.e., what kind of user interface and communication channel is used (Internet-based network or dedicated/secured private network)?	The most suitable user interface and communication channel to be used for a single window is an internet-based network.	
A2.2.2	Does it support a paperless environment?	Yes, in ways that all paper processes will be eliminated	
A2.2.3	How many agencies are connected to the single window? Please list them.	50	
A2.2.4	Who operates this system?	Customs Department at the moment via the ASYCUDA World	
A2.2.5	What is your country's future plan and the targeted timeline to implement a single window system?	Should be implemented within the next 5 years, however, it depends on the fundings set aside or available to do it.	

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
A3.	<p>Information and communications technology infrastructure for paperless trade</p> <p>Good information and communications technology (ICT) infrastructure is an essential element of an efficient paperless trade system. The primary function of the network is to serve as a secure channel for information exchange between the participating parties. The lack of Internet service could be one of the obstacles to full implementation of a trade facilitation system when the business process is incomplete due to missing parties in network connectivity.</p> <p>There are various options of network, such as multiprotocol label switching (MLPS), Internet protocol (IP), virtual private network (VPN) and secure hypertext transfer protocol (HTTP). Regardless of the choice of options, the network should allow connectivity and interoperability between heterogeneous platforms and support various protocols and exchange paradigms within a secure operating environment. It is not uncommon that different stakeholders have different levels of computerization and systems on different platforms. To ease integration, interfacing and interoperability between these systems, a single window system which connects them needs to support interface with heterogeneous systems.</p> <p>Putting in place a strategic plan to address ICT infrastructure issues and a disaster recovery plan should be part of a business continuity plan. It is essential to ensure the effects of operating disruptions are properly mitigated.</p>		
A3.1	<p>Is network service available at all border posts, including ports, airports and cargo clearance facilities, in your country?</p> <p>If not, what is your country's future plan and targeted timeline to connect the stakeholders of the logistic and supply chain, including controlling agencies?</p>	<p>Yes, there is network service connecting via satellite and broadband connection available at all border posts, including ports, airports and cargo clearance facilities in Tuvalu.</p>	
A3.2	<p>Are any of the systems mentioned in A2.1, "Electronic systems", connected via a common or single network?</p> <p><i>If yes, please answer A3.2.1–A3.2.6.</i></p>	<p>No, the ASYCUDA World, which is the only system mentioned in A2.1, is connected via the internet.</p>	
A3.2.1	<p>Is it integrated and secure?</p>		
A3.2.2	<p>Is it able to provide a high availability rate of minimum 99.9 per cent in terms of service level agreement for</p>		

<i>No.</i>	<i>Questions</i>	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
	trade data exchange in paperless environment?		
A3.2.3	Is it able to support various communication protocols?		
A3.2.4	Is it able to provide secure information exchanges that ensure confidentiality and data integrity?		
A3.2.5	Is it designed to take into account future requirements such as device and technology upgrades?		
A3.2.6	If any of the above (A3.2.1–A3.2.5) is lacking, what is your country's future plan to upgrade it and what is the targeted timeline?		
A3.3	Is the single window system, if implemented, interoperable with other systems?	The main aim is for the single window system, if implemented, to be interoperable with other upcoming systems, for instance, the immigration system, marine and port systems, bio security, and others.	
A3.3.1	Is it able to integrate, interface and/or interoperate with other existing heterogeneous systems (i.e., with systems on a different platform)?	Currently, there are no existing heterogeneous system that are needed to integrate, interface or interoperate with the ASYCUDA World. This is an advantage for Tuvalu, because ASYCUDA World now has a chance to negotiate its requirements to upcoming systems in order for them to easily integrate, interface and/or interoperate.	
A3.3.2	If it does support (i.e., is interoperable with) heterogeneous systems, what is the method of integration/interfacing?	If ASYCUDA World support interoperable with future heterogeneous systems, the best method of integration/interfacing is via the extracting and importing of related data.	

No.	Questions	Elaboration on status/issues/future plan	Timeline (if relevant) for future plan
A3.4	Strategic plan to address ICT infrastructure issues	2021 National ICT Policy ³⁶	
A3.4.1	Does your country have a strategic plan to address ICT infrastructure issues (for paperless trade)?	There is plan to address ICT infrastructure issues in the National Strategy For Sustainable Development 2021 – 2030 (TE KETE) ³⁷	
A.3.4.2	If not, what is your country's future plan and targeted timeline to establish a strategic plan?		
A3.5	Disaster recovery		
A3.5.1	Is there a policy for the establishment of a disaster recovery plan at the agency level?	No, there is no policy for the establishment of a disaster recovery plan at the agency level. However, such policy is very important and it will be implemented soon, maybe the next 2 years.	Established a policy for disaster recovery plan at the agency level in the next 2 years.
A3.5.1.1	If yes, please indicate the level of implementation for the disaster recovery plan (specify percentage of agencies).		
A3.5.2	Is there a policy for the establishment of a disaster recovery plan at the national level?	No, there is no policy for the establishment of a disaster recovery plan at the national level. However, such policy is very important and it will be implemented soon, maybe the 2 years.	Established a policy for disaster recovery plan at national level in the next 2 years.
A3.5.2.1	If yes, please indicate whether the disaster recovery plan is implemented at the national level.		
A3.5.3	If there is no policy for the establishment of a disaster recovery plan, what is your	To implemented one within the next 2 years.	

³⁶ <https://finance.gov.tv/wp-content/uploads/2022/08/National-ICT-Policy-2021.pdf>

³⁷ https://finance.gov.tv/wp-content/uploads/2022/05/Te-Kete-TuvaluNationalStrategyForSustainableDevelopment_2021to2030.pdf

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
	country's future plan and targeted timeline to set up a disaster recovery plan?		
A3.6	Does your country have a business continuity plan for paperless trade systems?	No, there is no proper business continuity plan for paperless trade systems in Tuvalu.	Established a business recovery plan for paperless trade systems in the next 2 years.
A3.6.1	If yes, is it regularly tested at an established frequency?		
A3.6.2	If not, what is your country's future plan and targeted timeline to develop a business continuity plan?		
A4.	Security The confidence of users to replace paper-based document with electronic information or data depends to an extent on the security of the information technology system that manages electronic data.		
A4.1	Is there an information technology security policy for your country? If yes, please specify.	No, there is no information technology security policy for Tuvalu. However, there is a cybersecurity policy that is currently under implementation.	Established a technology security policy for Tuvalu in the next 2 years.
A4.2	If any of the systems mentioned in A2.1, "Electronic systems", have been implemented, what kind of security measures are in place to protect them from unauthorized access?	The ASYCUDA World is a UNCTAD system and therefore it has the UNCTAD security measures to protect the system from unauthorized access.	
A4.3	What kind of authentication mechanism is used to ensure security of information transmitted electronically?	The using of username and password.	
A4.4	What kind of communication protocol is used for electronic data exchange currently?	Transmission Control Protocol (TCP)	
A4.5	What is your country's future plan and targeted timeline to	The Government of Tuvalu is planning on implementing security	

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
	enhance the security level in A4.1 and A4.2?	policies such as cybersecurity policy, etc. within the next 2 years in order to enhance the security level.	
A5.	Business process re-engineering Failure to review and re-engineer a manual procedure/process in the development of an electronic system will often lead to inefficiency of the system. It will jeopardize integration/interfacing with other systems if business processes across the board are not streamlined to ensure the seamless flow of information. Implementation of an electronic system often begins with parallel processing of paper documents, but the ultimate goal is to discontinue the usage of paper documents.		
A5.1	Have the stakeholders in your country conducted re-engineering and streamlining of business processes to support paperless trade or a national single window:	Yes, the stakeholders in Tuvalu conducted re-engineering and streamlining of business processes to support paperless trade via the ASYCUDA World and a future national single window.	
A5.1.1	At the agency level? (Please list them.)	Yes, users of the ASYCUDA World which are agencies that do customs clearance for individuals, businesses, freight forwarders, and shipping agents had been trained on the using of the system. Therefore, now 100% of customs clearance are done via the ASYCUDA.	
A5.1.2	At the national level?	Yes	
A5.2	Has your country implemented any paperless trade transactions?	Yes, via ASYCUDA World.	
A5.2.1	If yes, what kind of transactions have been implemented, and what type of electronic documents are exchanged?	All customs clearance documents	
A5.2.2	If not, what is your country's future plan and targeted timeline to do away with paper-based documents?		
A6.	Data harmonization and standardization Data compatibility is one of the main issues that needs to be addressed in various connectivity projects in and around the region. Thus, if data harmonization and standardization can be carried		

No.	Questions	Elaboration on status/issues/future plan	Timeline (if relevant) for future plan
	out as early as possible, seamless data exchange will be achieved without compatibility issues especially if it is based on international standards.		
A6.1	Has data harmonization and standardization been conducted for the data elements for paperless trade:	Yes, for ASYCUDA World	
A6.1.1	At the agency level?	Yes	
A6.1.2	At the national level?	Yes, as ASYCUDA World is use at national level	
A6.1.3	If yes, has a data model been adopted and is it based on international standards/guidelines such as the United Nations Rules for Electronic Data Interchange for Administration, Commerce and Transport, United Nations Code for Trade and Transport Locations, Core Component Technical Specification, core component library and/or the World Customs Organization Data Model?	Yes, as ASYCUDA World is a UNCTAD's system, its data model is based on international standards/guidelines.	
A7.	Capacity-building Capacity-building is an ongoing activity in most projects but is important particularly at the outset to ensure stakeholders have a common understanding of the project and their respective roles and responsibilities to make it a success.		
A7.1	Has your country conducted any awareness programme and/or workshop to ensure the stakeholders, including government agencies and traders, have a common understanding on paperless trade as well as their respective roles to help realize cross-border paperless trade data exchange?	Yes, there were awareness and/or workshop done during the recent introduction of ASYCUDA World	
A7.2	Do the stakeholders of cross-border trade in your country	No, as ASYCUDA World is new to the country, stakeholders of cross-border trade have not fully	More awareness programme for stakeholders of cross-

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
	fully understand the single window approach?	understood the idea of a single window approach, yet. However, they will know more about single window approach if more awareness programme on it is done.	border trade in the country on the single window approach.
A7.3	Has your country conducted any awareness programme or workshop on single window?	The Government of Tuvalu has not conducted any awareness programme or workshop on single window, but it is interested in doing it.	
A7.4	What is your country's future plan and timeline to enhance capacity-building for cross-border paperless trade data exchange?	To conduct awareness program or workshop on single window once quarterly.	
A8.	Other matters		
A8.1	Computer literacy		
A8.1.1	What is the level of computer literacy in the trading community in your country as a whole to support electronic transactions? (70–100%=high, 20–69%=medium, 0–19%=low)	Medium.	
A8.1.2	Are they ready to accept changes arising from re-engineered business processes in implementing paperless trade systems?	The trading community in Tuvalu as a whole, is somewhat ready to accept changes arising from re-engineered business processes in implementing paperless trade systems. However, more awareness programs paperless trade system will help prepare the trading community to fully accept the changes as it may benefit their businesses.	More awareness programme in implementing paperless trade systems with the trading community in Tuvalu
A8.2	Budget constraints		
A8.2.1	Does your country encounter budget constraints in implementing paperless trade systems?	Yes, the Government of Tuvalu has less budget allocation for implementing and maintaining paperless trade systems in the past.	There will be a slight increase in Government budget allocation for implementing and

<i>No.</i>	<i>Questions</i>	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
			maintaining paperless trade systems.
A8.2. 2	If yes, what is your country's future plan to overcome this financial constraint and what is the targeted timeline?	Rely on donor partners or fundings from overseas in the near future.	Prepare more proposal to donor partners for funding on the implementation and maintenance of paperless trade systems.

B. National status towards cross-border data exchange

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
<p>Ideally, all stakeholders of cross-border trade should be on board the cross-border data exchange project to bring forth full benefits. In this respect, it is important that their information technology systems support cross-border data exchange. A single window system is meant to connect systems of the stakeholders via a single point of connectivity providing more efficient integration/interfacing. Likewise, a national single window, which acts as the national single point of connectivity, will ease integration/interfacing for cross-border data exchange with dialogue partners.</p>			
B1.	Electronic systems		
B1.1	If any of the systems mentioned in A2.1, “Electronic systems” have been implemented, what percentage support cross-border data exchange?	100%	
B2.	Single window system		
B2.1	If a single window system mentioned in A2.2 has been implemented, does it support cross-border data exchange?	Yes, cross-border data exchange is supported by ASYCUDA.	
B2.2	If yes, does it function as the national single window, which acts as the national single point of connectivity for any cross-border data exchange with other dialogue partners?	Yes, ASYCUDA World acts as the national single point of connectivity for any cross-border data exchange with other dialogue partners	
<p>When business process re-engineering is done on domestic procedures/processes for paperless transactions at the national level, it has to take into consideration requirements for cross-border data exchange whereby paper documents will not be exchanged across borders.</p>			
B3.	Business process re-engineering		
B3.1	If your country has implemented paperless transactions at the national level, as mentioned in A5.2, has re-engineering and streamlining of business processes been conducted to support cross-border data exchange?	Yes	
B3.2	If not, what is your country’s future plan and targeted timeline to develop a regional		

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
	business process for cross-border data exchange?		
<p>If data harmonization and standardization is done based on international standards which are adopted by most organizations or countries in the region, it will minimize changes in the national system process and database structure when implementing cross-border data exchange electronically.</p>			
B4.	Data harmonization and standardization		
B4.1	<p>Has data harmonization and standardization been conducted based on international standards/guidelines, such as the United Nations Rules for Electronic Data Interchange for Administration, Commerce and Transport, United Nations Code for Trade and Transport Locations, single window recommendation of the United Nations Centre for Trade Facilitation and Electronic Business, to support cross-border paperless trade data exchange?</p>	<p>Yes, ASYCUDA World includes data harmonization and standardization based on international standards/guidelines.</p>	
B4.2	<p>If not, what is your country's future plan and targeted timeline to minimize changes in your system process and database structure for cross-border data exchange electronically?</p>		
B5.	<p>International transit</p> <p>The issues transit traders face under the current international transit procedure in many countries in the region include the following:</p> <p>(a) Repetitive submission of a customs transit declaration at entry to every country of transit;</p> <p>(b) A security document needs to be registered at every country of transit.</p> <p>To address the above issues, the following could be considered:</p> <p>(a) A single customs transit declaration to be valid for the whole transit route: data and information of the customs transit declaration could be submitted and approved at the country of departure and shared across borders with the countries of transit and the country of destination.</p> <p>(b) A single guarantee to be valid for the whole transit route: relevant data/information of the guarantee could be registered at the country of departure and shared across borders with countries of transit and the country of destination.</p> <p>If single stop inspection is done by all controlling agencies in the exporting country and data of the inspection results are shared with the importing country, it will definitely expedite cargo clearance.</p>		

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
B5.1	Has the country implemented a paperless customs declaration for national transit procedures (inbound transit, outbound transit, inland transit)?	Yes, via ASYCUDA World, however, it is not fully utilized at the moment	ASYCUDA World function for national transit procedures (inbound transit and outbound transit) to be implemented or fully utilised in the next 2 years.
B5.2	Has the country implemented a paperless customs declaration for international transit?	Yes, via existing functions of ASYCUDA	
B5.2.1	<p>If yes, is the customs regime in your country able to support the implementation of a single customs transit declaration and single guarantee valid for the international transit route taking into consideration the following:</p> <p>(i) To agree on a guarantee registered at the country of departure, covering the highest duty amount calculated based on the duty rate of each country in the transit route, to be valid and accepted throughout the transit route?</p> <p>(ii) To agree on a regional/subregional format and content of the single guarantee?</p>	<p>Yes</p> <p>Yes</p>	
B5.2.2	If not, what is your country's future plan and targeted timeline to address this issue?		
B5.3	Has your country implemented a one-stop inspection system by all controlling agencies at the borders at the time of exit/export?	Yes	
B5.3.1	If yes, are the inspection results shared with the importing country?	Yes, this is mostly done for bio security - a document will be given to the traveller	
B5.4	If not, is there any intention to implement a single-stop inspection and what is the timeline?		

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
B6.	<p>Awareness programme</p> <p>Awareness programmes are important for stakeholders to understand how cross-border data exchange could be carried out to reduce their anxiety and prepare them to address any issues that may arise.</p> <p>If a country lacks the expertise to carry out business process analysis, data harmonization and simplification, system development, project management, etc., it may look for technical assistance from external parties.</p>		
B6.1	Does your country have an awareness programme (for example, capacity-building, training, workshops) for stakeholders to have a better understanding of the following issues?		
B6.1.1	How could cross-border data exchange be implemented?	No, it will have it done once it is needed – 2 years	Awareness programme on cross-border data exchange to be conducted in the near future
B6.1.2	Potential business transactions and documents for cross-border data exchange?	No, it will have it done once it is needed – 2 years	
B6.1.3	Methods of identifying inhibitors that need to be addressed?	No, it will have it done once it is needed – 2 years	
B6.2	If your country has not conducted any awareness and capacity-building programmes related to B6.1.1–B6.1.3, what is your country's future plan and targeted timeline to conduct an awareness programme?	To conduct soon when required – 2 years	
B6.3	Does your country have the capacity to carry out the following: (a) business process analysis; (b) data harmonization and simplification; (c) system development; and (d) project management?	No, it should be able to have the capacity within the next 2 years	
B7.	<p>Other matters</p> <p>Some countries which are ready for cross-border data exchange may not be willing to participate in a pilot project. One of the reasons is a lack of trust in the economic operators of their dialogue partners. If your economic operators are able to comply with the authorized</p>		

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
economic operator scheme and are mutually recognized by their dialogue partners, it will expedite cross-border data exchange.			
B7.1	Authorized Economic Operator (AEO)		
B7.1.1	In general, what is the level of compliance of traders in your country (high, medium or low)?	High	
B7.1.2	Has the authorized economic operator scheme been implemented in your country	No, should be implemented within the next 2 years	Consider an authorised economic operator scheme in Tuvalu in the near future
B7.1.2.1	If yes, how extensive is the implementation in terms of the percentage of economic operators registered for the scheme?		
B7.1.3	Is your country ready to sign any mutual recognition agreements for authorized economic operators with dialogue partners?	No, it will be within the next 2 years	
In the preparatory stage, it is useful to assess the readiness of stakeholders to accept changes arising from cross-border data exchange and the availability of funds for any potential cross-border paperless trade project.			
B7.2	<p>Are the stakeholders and the trade community ready to accept changes arising from the re-engineered processes towards cross-border data exchange?</p> <ul style="list-style-type: none"> • Regulatory agencies • Agents/customs brokers • Traders • Port community • Financial institutions • Other (please specify) 	Yes, to all	

No.	Questions	<i>Elaboration on status/issues/future plan</i>	<i>Timeline (if relevant) for future plan</i>
B7.3	Has your country's government budget provisioned for the transition to cross-border paperless trade data exchange?	No, the Government has very limited budget for this but it is expected to be fund by donor partners.	
B7.3.1	If not, what is your targeted timeline?	Probably from year 2023 onward the Government will have some budget for cross-border paperless trade data exchange	
Sharing information on a country's preferences on the prioritized documents for cross-border data exchange can help identify potential participants having the same or similar preferences to work together on pilot projects.			
B7.4	<p>Is your country considering cross-border data exchange for any of the documents and related processes? (Y=Yes, N=No. Please select the top five prioritized documents)</p> <p>(i) Seaway bill</p> <p>(ii) (Advance) Manifest</p> <p>(iii) Customs transit declaration</p> <p>(iv) Transit bond</p> <p>(v) Phytosanitary certificate</p> <p>(vi) Sanitary certificate</p> <p>(vii) Fumigation certificate</p> <p>(viii) Convention on International Trade in Endangered Species of Wild Fauna and Flora certificate</p> <p>(ix) Certificate of origin (preferential)</p> <p>(x) Certificate of origin (non-preferential)</p> <p>(xi) Pharmaceutical certificate</p> <p>(xii) National standard and quality certificate</p> <p>(xiii) International Organization for Standardization (ISO) and other international standards and quality certificates</p> <p>(xiv) Certificate for medical devices</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<ol style="list-style-type: none"> 1. Manifest 2. Certificate of origin 3. Bill of lading 4. Invoice 5. Fumigation certificate/p harmaceuti cal certificate

No.	Questions	Elaboration on status/issues/future plan	Timeline (if relevant) for future plan
	(xv) Certificate of electrical and electronic components, equipment and products (xvi) Dangerous Goods List (xvii) Material safety data sheet (xviii) Letter of credit (xix) Bill of lading (xx) Invoice (xxi) Packing list (xxii) Import permit (xxiii) Others (please specify)	Yes Yes Yes Yes Yes Yes Yes Yes	
B7.5	For each of the five prioritized documents identified in B7.4, please provide/specify further information on the following: document name; implementing agency; and percentage of the paperless documents and related processes.	1. Manifest – 100% 2. Invoice – 100% 3. Bill of lading – 100% 4. Certificate of origin – when importing from the countries that has it e.g Fiji 5. Fumigation certificate/pharmaceutical certificate – when it required	

Appendix: Form for implementation of paperless trade by the other governments

Name of ministry or agency				
Permit type IL = import licence EL = export licence C/O = certificate of origin SC = sanitary / health certificates PS = phytosanitary certificates OT = other types				
1. Has business process re-engineering been conducted and completed?	Completed []	Ongoing []	Not conducted []	Don't know []
1.1. If it is on-going, when is it going to be completed? [Year/Month] 1.2. If it is not implemented, is there a plan to conduct it? [] Yes [] No [] Don't know 1.3. If 1.2 is yes, when is it going to commence? [Year/Month]				Please provide further information, such as website, date of implementation, etc.
2. Has e-application (capability to receive, process and issue document electronically) been implemented?	Fully implemented []	Partially implemented []	Not implemented []	Don't know []
2.1. If it is not implemented, is there a plan to implement it? [] Yes [] No [] Don't know 2.2. If 2.1 is yes, when is it going to be implemented? [Year/Month] 2.3 If it is implemented, how the supporting documents are being submitted? [] MSD = Manual Supporting Documents [] EDHC = Electronic Declaration/Application but hard copy still required [] any other methods (Please specify _____)				Please provide further information, such as website, date of implementation, etc.

<p>3. Has e-application been connected to the e-customs system and/or the single window?</p>	<p>e-customs system []</p>	<p>Single Window []</p>	<p>Not connected []</p>	<p>Don't know []</p>
<p>3.1. What is the level of integration between e-application and a single window and/or an e-customs system, if connected? <input type="checkbox"/> Partially connected <input type="checkbox"/> Fully connected <input type="checkbox"/> Don't know <i>Note:</i> Partially connected means electronic transfer of information is one-way, while fully connected means electronic transfer of information is reciprocal between an e-application and a single window and/or an e-customs system.</p>				<p>Please provide further information, such as website, date of implementation, etc.</p>
<p>4. Is e-payment available for the e-application?</p>	<p>Yes []</p>	<p>No []</p>		
<p>4.1. What are the available payment options for the e-Application? <input type="checkbox"/> EFT = electronic funds transfer <input type="checkbox"/> CD = cash deposit <input type="checkbox"/> CC = credit card <input type="checkbox"/> CSH = cash <input type="checkbox"/> Other options (please specify _____)</p>				<p>Please provide further information, such as website, date of implementation, etc.</p>

Annexes IV. Cross-border paperless trade: a legal readiness checklist: Tuvalu



Cross-border paperless trade: a legal readiness checklist

Version 1.0 as of 21 August 2020

Legal and Technical Working Group of the Interim Intergovernmental Steering Group on Cross-border Paperless Trade Facilitation

Introduction

1. The checklist serves to identify potential legal gaps and highlight what may need to be done to ensure the laws support engagement in cross-border paperless trade, as envisaged in the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific, which was adopted by the Economic and Social Commission for Asia and the Pacific (ESCAP) in 2016, and to which Tuvalu became a state party on 15 December, 2023
2. In line with the substantive provisions of the Framework Agreement, the checklist organizes legal issues into four major parts as follows: (a) electronic transactions and signatures law; (b) laws regarding paperless trade systems; (c) cross-border aspects; and (d) other considerations. Each part is divided into sections. In each part and section of the checklist, key legal issues are highlighted, and a list of focus questions is proposed.
3. The checklist is intended for use by all stakeholders involved in paperless trade facilitation and not only for legal specialists. While it includes references to legal concepts, it does so in general terms in order to reach a broad audience. Each question should be seen as the starting point for a broader reflection on the state of the law in the given area.
4. The term “law” should be understood to include statutes, regulations, administrative measures and any other binding rules. All questions about national laws can be applied to subnational laws as appropriate. In completing the checklist, it is recommended that the user indicate, where possible, the legal authority for the answers, for example the statute, regulation or other rule relevant to the answers. Some relevant obligations may arise through contracts as well.
5. Additional guidance on how to use this checklist is provided in a separate online guide.³⁸ A number of examples of country reports on readiness assessments for cross-border paperless trade carried out by ESCAP are also available online.³⁹ In addition, a general introduction on legal issues related to cross-border paperless trade may be found in the ESCAP publication Electronic Single Window Legal Issues: A Capacity-Building Guide.⁴⁰

³⁸ <https://readiness.digitalizetrade.org>

³⁹ Available at www.unescap.org/resources/readiness-assessments-cross-border-paperless-trade

⁴⁰ ST/ESCAP/2636.

A. Electronic transactions and signatures law

6. Part I of the checklist is focused on laws related to electronic transactions and electronic signatures. These concerns are addressed either directly or indirectly in articles 5, 6 and 7 of the Framework Agreement. In particular, the first three principles included in article 5 (on general principles) represent the principles guiding the legislative texts on electronic commerce prepared by the United Nations Commission on International Trade Law (UNCITRAL) and, as such, are an expression of international consensus.⁴¹ Approximately half of the Governments in Asia and the Pacific have adopted at least one UNCITRAL text on electronic commerce.⁴²
7. In order to promote interoperability to the extent possible, similar rules should apply to electronic communications exchanged among commercial operators and between commercial operators and public authorities. In the paperless trade facilitation environment, this means that trade-related data exchanged in commercial documents may be reused for submission to single windows. This should ensure high data quality with respect to its origin, integrity, accuracy, completeness and other characteristics.

No.	Focus questions	Response
	Related provisions of the Framework Agreement: <ul style="list-style-type: none"> • Article 5 on general principles. • Article 6 on the national policy framework, enabling domestic legal environment and paperless trade committee. • Article 7 on the facilitation of cross-border paperless trade and development of single-window systems (more specific questions on the single window appear below in part II). 	
I.A	Electronic transactions law: general principles This section is aimed at identifying the general features of electronic transactions law, including whether they implement internationally recognized general principles.	
I.A.1	What is the legal status of electronic transactions?	Tuvalu currently has no general E-Transaction Act. The existing laws contain related provisions in relation to paper-based contracts, telegraphic or electronic transfer of documents, and electronic signature. The Development Bank of Tuvalu Act and the Carriage of Goods provide minimal provision for contract in the offline world. The Banking Commissioner Act contains an enabling provision for electronic banking. The Tuvalu Post- Money Order Regulation provides for telegraphic transfer of money. Telegraphic

⁴¹ The Framework Agreement contains the internationally recognized criteria for these laws, such as non-discrimination of the use of electronic communications (the laws apply in the same way, or with the same effect, to paper and electronic documents), technological neutrality (the laws do not specify what technology to use to achieve the legal effect) and functional equivalence (electronic documents have the same practical or legal effect as their paper equivalents, even if they have different characteristics).

⁴² For a list of UNCITRAL texts on electronic commerce, see part III.

		<p>and electronic transactions between Financial Institutions and customers are recognized under the Proceeds of Crimes Act. Electronic signature is limited to delegation of authority under the Customers, Revenue and Border Protection Act 2014. Purpose specific</p> <p>The Customs, Revenue and Border Protection Act 2014 contains provisions pertaining to the exchange of electronic documents by importers or exporters, electronic publication, electronic authority (signature) under s. 11, protected information under s. 14 & 15.</p> <p>There are efforts to develop E-Commerce laws that would incorporate e-transactions law and other relevant laws such as consumer protection online, data protection and privacy and cybercrime in line with internationally recognized general principles.</p> <p>The Tuvalu Government, with the support of Enhance Integrated Framework (EIF), carried out a Rapid e-Trade Readiness Assessment in 2018-2019.⁴³ The e-Trade Readiness Assessment identified, among other action areas, the need for a robust and updated e-commerce legal and regulatory framework. A proper e-commerce legislative framework will enable legal recognition and enforceability of cross border electronic transactions, data security, consumer protection and cybercrime in Tuvalu.⁴⁴</p> <p>In 2020-2021, Tuvalu Government, with the support of the Australian Government's 'E-commerce Aid for Trade fund', carried out a desk review to assess needs to upgrade e-commerce related laws of Tuvalu. The desk review involves a gap analysis of existing relevant laws of Tuvalu benchmarked against international e-commerce standards and e-commerce laws of four selected countries - New Zealand, Singapore, Fiji and Trinidad & Tobago. The gap analysis identifies four categories of e-commerce laws in line with the typology adopted by the United Nations Conference on Trade & Development (UNCTAD) - (1) <i>Electronic Transactions</i>; (2) <i>Consumer Protection</i>; (3) <i>Data security</i>; and <i>Cybercrime</i>.</p> <p>https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0015/CustomsRevenueandBorderProtectionAct2014_1.pdf</p>
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⁴³ Tuvalu Rapid e-Trade Readiness Assessment: Available from: https://enhancedif.org/en/system/files/uploads/tuvalu_rapid_etrade_readiness_assessment.pdf?file=1&type=node&id=5842

⁴⁴ Tuvalu E-Commerce Regulatory Gap Analysis, 2021, Department of Trade, Government of Tuvalu

I.A.2	If an electronic transactions law exists, is it based on uniform models?	There is no general electronic transaction law in Tuvalu. The specific laws contain minimal provisions about electronic transactions which are not based on the uniform models.
I.A.3	What are the conditions, if any, for the legal recognition of electronic transactions?	<p>Partial</p> <p>There is no general law in relation to conditions for the legal recognition of electronic transactions. However, the specific provisions of the Customs Revenue and Border Protection Act appears to recognize electronic transactions or transmissions and e-signatures. Provisions indicating general recognition of electronic transactions include terms defined that recognized electronic form including declaration, documents and single administrative document (SAD).⁴⁵ ,(see below)</p> <p><i>“declaration”</i> means the provision of all information to Customs whether verbal or in a document or in electronic form by a person relating to the import or export of goods; or the arrival or departure of a craft; or arrival or departure of a person;</p> <p><i>“Document”</i> means any record of information and includes a document in electronic form.</p> <p><i>“Electronic publication”</i> means a thing on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being reproduced or shown as 1 or more images, representations, signs, statements or words;</p> <p><i>“Single administrative document (SAD)”</i> means an electronic declaration for the purposes of the customs computerized entry processing system;</p>

No	Focus questions	Response
I.A.4	Does the law establish functional equivalence between paper documents and electronic communications?	<p>Yes</p> <p>There is no general establishing functional equivalence, however, the customs law, specifically the CRBPA, recognizes documents information and declarations in electronic form which affords some functional equivalence to trade-related data and documents in electronic form such as certificates of origin, invoices, phytosanitary certificates, and transferable records such as bill of lading. However, there are no special rules for the use of electronic communications in paperless trade, trade-related data and documents in electronic form, and electronic transferable records.</p> <p>Terms that recognize electronic form include;</p>

⁴⁵ CRBPA, section 3

		<p>“declaration” - <i>a declaration that is made and transmitted electronically, that is required or authorised under this Act must be made on an approved form.</i>⁴⁶</p> <p>Section 267 of the CRBPA provides the following relevant provisions;</p> <p>A “Document” is defined under the Act to mean any record of information and includes a document in electronic form;</p>
I.A. 5	What is the legal status of electronic contracts?	<p>Current the Tuvalu laws provide generally for contracts without specific reference to electronic contracts. The relevant laws include the CRBPA, the Sales of Goods Act, and the Carriage of goods by sea Act. In the absence of any specific requirements for electronic contracts, the current law is sufficiently media-neutral.</p> <p>Sale of Goods Act Sale of Goods Act (tuvalu-legislation.tv) https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/1991/1991-0010/SaleofGoodsAct_1.pdf</p>
I.A. 6	Are there special rules for the use of electronic communications in paperless trade?	<p>Partial</p> <p>There is no general special rule for electronic communications</p> <p>Rules under the Customs laws includes electronic documents.</p>
I.A. 7	<p>In particular, are there special rules for the use of trade-related data and documents in electronic form, such as certificates of origin, invoices and phytosanitary certificates?</p> <p>https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0015/CustomsRevenueandBorderProtectionAct2014_1.pdf</p>	<p>Partial</p> <p>The Customs, Revenue and Border Protection Act 2014 prescribes rules for the issuance of a Tuvalu certificate of origin. A Tuvalu Certificate of origin must be issued by a certification body and it (a) identifies the goods to which it relates; and (b) certifies that those goods originate in Tuvalu and (3) should satisfy the requirement of any agreement if the goods originate in Tuvalu for the purposes of a relevant free trade agreement.⁴⁷ Since a certificate of origin is a document, it is presumed to include certificate of origin in electronic form, in line with the definition of document Similar treatment</p> <p>Customs, Revenue and Border Protection Act 2014 63 Tuvalu Certificate of Origin for Goods for Export to Party to Free Trade Agreement (1) A certification body authorized by the Director under section 64 in relation to a party to a free trade agreement may issue a</p>

⁴⁶ CRBPA, section 267

⁴⁷ Customs, Revenue ad Border Protection Act 2014, section 63

		<p>Tuvalu certificate of origin in respect of goods for export to that party.</p> <p>(2) A Tuvalu certificate of origin, in respect of goods for export to a party to a free trade agreement, is a document issued by a certification body that—</p> <p>(a) identifies the goods to which it relates; and</p> <p>(b) certifies that those goods originate in Tuvalu.</p> <p>(3) Goods originate in Tuvalu if, for the purposes of the relevant free trade agreement, the goods satisfy the requirements of the rules of origin prescribed for that agreement.</p> <p>(4) For the purposes of this section, — PICTA means the Agreement establishing the Pacific Island Countries Trade Agreement done at Nauru on 18 August 2001 free trade agreement means:</p> <p>(a) the PICTA; or</p> <p>(b) a Free Trade agreement which Tuvalu is a party to it.</p> <p>64 Bodies Authorized to Issue the Tuvalu Certificate of Origin</p> <p>(1) The Director may designate a body as a certification body if the Director is satisfied that the body meets the prescribed criteria (if any).</p> <p>(2) A designation may be subject to any prescribed terms and conditions and any additional terms and conditions the Director determines.</p>
I.A. 8	Are there special rules for the use of electronic transferable records such as bills of lading?	<p>No</p> <p>Bill of lading is a legal document</p> <p>Carriage of Goods by Sea Act Sale of Goods Act What is the current practice? Who is using it?</p>
I.B	Electronic signatures and trust services	<p>Electronic signatures serve to identify the originator of an electronic communication and ascertain their intention with respect to that communication. Certain types of electronic signatures, namely digital signatures based on public key infrastructure certificates, may provide additional information, for instance on the integrity of the data message and on timestamping.</p> <p>Many laws deal with the legal recognition of electronic signatures. However, legislative approaches may vary significantly, in particular with respect to technological neutrality and the recognition of service providers.</p> <p>Trust services are electronic services that provide assurance on the quality of data. Trust services are often used to establish confidence in the use of electronic communications.</p>
I.B. 1	Does the law address how electronic signatures, including for identification, authorization and authentication, are added in an electronic environment? Does it require the use of a specific technology or method	<p>Partial</p> <p>There is no general law for electronic signatures in Tuvalu.</p> <p>The Customs, Revenue and Border Protection Act makes reference to authorization by the Director in writing which include any writing in electronic form, however, the reference to electronic</p>

	for electronic signatures or is it technology neutral?	<p>writing is limited to providing authority for an officer without any mention of e-signature. Section 11 of the Customs Revenue and Border Protection Act provides as follows;</p> <p><i>“11 Authorised Persons</i> <i>(1) The Director may authorize in writing a suitable qualified and trained person who is not a Customs Officer to perform or exercise any functional power that may be performed or exercised by a Customs Officer under this Act for whatever period of time the Director authorizes.</i> <i>(2) The authorization under subsection (1) must be in writing (including any writing in electronic form) and must specify—”</i></p>
I.B. 2	Does the law adopt a functional equivalence approach for electronic signatures?	No -
I.B. 3	Is the law based on international standards?	Currently no laws on e-signature
I.B. 4	Does the law recognize foreign electronic signatures?	No Mutual Assistance Act
I.B. 5	Are there special rules for the use of electronic signatures in paperless trade?	No
I.B. 6	Does the law deal with trust services?	No There are no general laws for trust services in Tuvalu.
I.C	Privacy and data protection Privacy and data protection are important elements of the legal landscape of electronic commerce as they may impose conditions to data transfer between the parties. This section is aimed at identifying laws relating to privacy and data protection, with special attention to those relevant to paperless trade.	
I.C. 1	Is there a law on privacy and data protection? If so, what are its features? Is it based on international standards?	<p>Partially yes</p> <p>No general law on privacy and date protection.</p> <p>Specific laws include;</p> <p>Section 125 of the CRBC Act <i>“Access to Customs Computerized Entry Processing Systems</i> <i>A person must not transmit to, or receive information from a Customs computerized entry processing system unless that person is an individual who is registered by the Director as a user of that Customs computerized entry processing system.</i></p> <p>126 Registered Users. <i>(1) A person who wishes to be registered as a user of a Customs computerised entry processing system, may apply in writing to the Director in the approved form and is to provide such information in relation to the application as is approved</i> <i>(2) The Director may grant the application to be registered as a user of a Customs computerised processing system on receipt of</i></p>

		<p><i>an application in the approved form, subject to any conditions the Director deems fit to impose, and upon payment of the approved fee; or</i></p> <p><i>(3) The Director may refuse to register the applicant if the Director is satisfied that the Applicant is not capable of complying with the conditions of registration.”</i></p>
I.C. 2	Does domestic law address the transfer of data abroad?	<p>Yes – Partial</p> <p>Transfer of data abroad is addressed across various specific legislations including the customs law which permits the disclosure of protected information, including electronic information, to agencies of foreign government and international organization on condition that the protected information will not be used or further disclosed for purposes others than that for which the disclosure is authorized. The Customs law does not expressly provide any special rules on privacy and data protection for paperless trade. Privacy and data protection is also recognized in several international agreements to which Tuvalu is a party. Protection of government information is regulated under the GAO and the Leadership Code. Leaders and civil servants are required to maintain government information confidential with conditions as prescribed in the GAO and Leadership Code</p>
No	Focus questions	Response
I.C. 3	Do international agreements contain provisions relevant to privacy and data protection?	<p>Are these International Agreements the ones cited in this checklist?</p> <p>Others Party to the International Agreement Any type other Agreement – e.g. Medical Agreement for privacy etc.</p>
I.C. 4	Does the law require data localization? If so, does it apply to paperless trade?	There is no requirement for data localization under the existing laws.
I.C. 5	Are there any special rules on privacy and data protection for paperless trade?	<p>Partially yes</p> <p>CRBC Act 14 Disclosure of Protected Information</p>

	<p>A Customs officer or an authorised person shall not disclose to any person any protected information except as authorised by section 15.</p> <p>15 Authority to Disclose Information</p> <p>(1) The Director may in writing, authorize disclosure of information or a class of information for any permissible purpose to:</p> <p>(a) a Department of the Government of Tuvalu; or (b) an instrumentality or agency of a foreign country; or (c) an international Organisation.</p> <p>(2) Any authorization approved under this section will specify the manner in which or the conditions under which the disclosure is to be made, and the Director is satisfied that:</p> <p>(a) a department of the Government of Tuvalu; or (b) an instrumentality or agency of a foreign government; or (c) an international Organisation will not use or further disclose such information or class of information except for the purposes for which the disclosure is authorised</p> <p>187 Unauthorised Access to or Improper Use of Customs Computerised Entry Processing system</p> <p>A person who: (a) knowingly and without lawful authority by any means gains access to or attempts to gain access to any Customs computerised entry processing system; or (b) having lawful access to any Customs computerized entry processing system, knowingly uses or discloses information obtained from such a computer system for a purpose that is not authorised; or (c) knowing that he or she is not authorised to do so, receive information obtained from any Customs computerised entry processing system and, uses discloses, publishes or otherwise disseminates such information. commits an offence, and shall be liable on conviction to a fine of \$200.00 or a term of imprisonment not exceeding one year, or both.</p> <p>188 Interference with Customs Computerized Entry Processing System</p> <p>(1) A person who:</p> <p>(a) by any means knowingly falsifies any record or information stored in any Customs computerised entry processing system; or (b) knowingly damages or impairs any Customs computerised entry processing system; or (c) knowingly damages or impairs any duplicate tape or disc or other medium on which any information obtained from a Customs computerised entry processing system is held or stored otherwise than with the permission of the Director, commits an offence, and shall be liable on conviction to a fine of \$200.00 or a term of imprisonment not exceeding one year, or both</p> <p>(2) In a case of body corporate shall be liable on conviction to a fine of \$500.00.</p>
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<p>I.C. 6</p>	<p>Does the law protect the confidentiality of commercial information in electronic form?</p>	<p>Partially yes</p> <p>Documents include electronic documents under the CRBC Act and are confidential and can only be disclosed on certain grounds under section 16.</p> <p>Under the CRBC Act, 16 Permissible Purpose For the purposes of subsection 15(1) a permissible purpose includes - the administration or enforcement of a law of Tuvalu or of another country that relates to: (i) criminal law; or (ii) a law imposing a pecuniary penalty or providing for the forfeiture of property. the prevention of crime or the detection or analysis of criminal conduct, in respect of the law referred to in paragraph (a); a purpose relating to the protection of public health, or prevention or elimination of risks to the life or safety of an individual or a group of individuals; (d) the protection of the revenue of the government of Tuvalu; (e) a purpose relating to the law of customs;</p>
<p>I.C. 7</p>	<p>Are there provisions on cybercrimes that are applicable to paperless trade?</p>	<p>Partially yes</p> <p>There is no general cybercrime law. Specific cyber related crimes are addressed across various legislation. The Ministry of Justice is currently working on a draft Cyber Crime Law which is generally based on the Budapest Convention. The Cyber Crime draft law will undergo further review work and validation in attempts to cover all relevant electronic crimes. The existing laws of Tuvalu contains commercial related offences with limited reference to cyber related crimes. The Penal Code criminalizes commercial offences such as forgery, false pretenses and falsification of documents but there is no specific reference to electronic or computerized documents.</p> <p>The Criminal Procedures Code recognizes electronic transmission of documents by the Attorney-General as prima facie evidence. The Proceeds of Crime Act criminalizes money laundering, possession of proceeds of crime, opening of accounts in false name, and disclosure of information prejudicial to investigation. The Police Powers Act provides procedures for identification of suspects. However, there is no specific reference to procedures applicable to computers or electronic mediums. The Copyright Act criminalizes infringement of copyright work and Telecommunication Act criminalizes any use of telecommunication system dishonestly to evade payments of charges, to send message that is grossly offensive, false, any false alteration, interference, etc.</p>

		<p>Proceeds of Crimes Act</p> <p>Define a "Document" as including computer files and electronic records.</p> <p>s.19 provides for search of documents in the possession of a financial institution or cash dealer.</p> <p>s.89(4) empowers a Magistrate to make a production order in relation to documents stored in a computer</p>
I.D	<p>Data sharing</p> <p>Paperless trade systems are often built around the notion of a single window for customs operations, which involves collecting trade-related data and documents and sharing them among participants. This process raises delicate issues. Besides general rules on privacy, data protection and data retention, specific legal texts may address data sharing, especially among public entities.</p>	
I.D. 1	<p>Are there agreements or policies for collecting, accessing, using and sharing data among government agencies participating in a paperless trade system?</p>	<p>No</p>
I.E	<p>Data retention and electronic evidence</p> <p>The legal effect of electronic records often depends on their evidentiary value, i.e. the ability to use those records before a court to substantiate a legal claim. This section is aimed at clarifying which retention and evidence rules apply.</p>	
I.E. 1	<p>Does the law establish general requirements for data retention, including a minimum and maximum retention period? Do they apply to electronically stored data?</p>	<p>Yes – Customs Revenue and Border Protection Act 2014</p> <p>The customs law require licensee, importer and exporter to keep records in Tuvalu for a period not exceeding 5 years.⁴⁸ Customs must keep a record for 5 years of every transmission sent to or received from a registered user using a Customs computerized entry processing unit.⁴⁹ Records and documents include those in electronic form and any electronic publication. The Public Records Act requires all public records of age 5 years or over (other than those which under any Act are required to be held in the custody of a specified person or Government office) to be deposited in the Archives office.⁵⁰</p> <p>97 Keeping of Business Records</p> <p>(1) A licensee, importer and exporter must keep or cause to be kept in Tuvalu such records, for a period not exceeding 5 years.</p> <p>(2) Every such person must, as and when required by a Customs officer:</p> <p>(a) make the records available to the Customs; and</p> <p>(b) provide copies of the records as required; and</p> <p>(c) answer any questions relevant to matters arising under this Act asked by any officer in respect of them.</p>

⁴⁸ CRBTA, section 97

⁴⁹ CRBTA, section 130

⁵⁰ Public Records Act, section 7

(3) Where, for the purposes of complying with subsection (2), information is recorded or stored by means of an electronic or other device, the licensee, importer, exporter, or agent thereof must, at the request of a Customs officer, operate the device, or cause it to be operated, to make the information available to the Customs officer.

98 Giving Customs Access to Business Records

(1) This section applies to a person only if the person:
(a) is a person to whom subsection 97(1) applies or a person otherwise involved in the carriage, handling, or transportation of goods that are being imported to, or exported from, Tuvalu and
(b) has been required by the Director by notice to comply with this section on and after a date specified in the notice.

(2) On and after the date specified in the notice a person to whom this section applies must provide any document prepared in the ordinary course of business for the purposes of a commercial transaction regarding the purchase and carriage of goods whether in hard copy or electronic format.

(3) A person to whom this section applies must give the Customs that access in the approved form and manner and must ensure that the Customs has that access at all reasonable times.

(4) The Director may, by notice in writing, exempt a person to whom this section applies from complying with some or all of the person's obligations under this section in all or any specified circumstances.

(5) To avoid doubt, nothing in this section affects any obligation under section 97 to keep or cause to be kept, make available, provide copies of, or answer questions in respect of, records.

“130 Customs to Keep Records of Transmission

Customs must keep a record for 5 years of every transmission sent to or received from a registered user using a Customs computerized entry processing unit.”

164 Director May Take Possession of and Retain Documents and Records

(1) The Director may take possession of and retain any document or record presented to him or her in connection with any entry or required to be produced under this Act.

(2) If the Director takes possession of a document or record under subsection (1), he or she may, at the request of the person entitled to the document or record, provide that person with a copy of the document certified by or on behalf of the Director under the seal of the Customs as a true copy.

(3) A certified copy is admissible as evidence in any court as if it was the original.

Public Records Act

		<p>7 Deposit of public records in the Archives Office</p> <p>(1) All public records of the age of 5 years or over (other than those which under any Act are required to be held in the custody of a specified person or Government office) which in the opinion of the Archivist are of sufficient value to warrant their preservation as —</p> <p>(a) evidence of the organisation, functions and transactions of the Government office in which they were originally made or received; or</p> <p>(b) evidence of public or private personal or property rights or civic rights; or</p> <p>(c) containing historical or general information</p>
I.E. 2	Does the law require or favour the use of specific trust services or service providers for data retention?	<p>The Public Records Act requires that all public records of 5 years or over (other than those which under any Act are required to be held in the custody of a specified person or Government office) must be deposited in the Archives office.⁵¹ This includes records stored electronically as “public records” is defined as all documentary records of any kind, nature and description used in legislative, administrative and executive transactions.</p> <p>The CRBPA does not require a specific trust service provider for data retention.</p>
I.E. 3	Do data custodians, such as data centres, assume liability for loss or damage to electronically stored information? Is such liability contractual, statutory or both?	<p>No</p> <p>There is no centralized data centre in Tuvalu. The Government has recently moved to saving data in the cloud, however, there are no laws in place to regulate the use, access and liability issues.</p>
I.E. 4	Is electronic evidence admissible in judicial and other proceedings?	<p>Yes</p> <p>Documents which are evidence of the commission of an offence are admissible in evidence in any Court. ⁵² Customs record of computer transmission is also admissible in all Courts, including printout of an extract of a record kept by the Customs computerized entry processing unit. ⁵³</p> <p>Electronic documents adduced as evidence by virtue of the Proceeds of Crimes Act and Mutual Assistance of Criminal Matters Act are also admissible in evidence in the Courts.⁵⁴</p> <p>247 Customs Record of Computer Transmission Admissible in Evidence</p>

⁵¹ Public Records Act 1979, section 7

⁵² CRBPA, section 166

⁵³ CRBPA, section 130 & 247

⁵⁴ Proceeds of Crimes Act

		<p>In any proceedings under this Act or any other Act, a computer printout of an extract of a record kept by the Customs under section 130, certified by or on behalf of the Director under the seal of the Customs as a true copy, is to be admissible in all Courts as evidence of the electronic message received by or sent to the Customs set out in that printout, unless the contrary is proved.</p> <p>The Proceeds of Crimes Act defines, under section 89(4) empowers a Magistrate to make a production order in relation to documents stored in a computer.</p> <p>"Document" is defined under the Proceeds of Crimes Act as "including computer files and electronic records".</p>
I.E. 5	Is electronic evidence that is generated, stored or collected abroad admissible? If so, under which conditions?	<p>Yes</p> <p>Section 245 of the Cross Border Paperless Trade Act provides that any documents made in a country outside Tuvalu may be made admissible by the Court as evidence as proof of any fact in issue. The discretion is given to the court to decide. Evidence extracted from abroad under the Mutual Assistance of Criminal Matters Act is subject to Treaties between Tuvalu and other countries. However, any physical and electronic evidence or documents generated from abroad under the Customs law may be made admissible by the Court as evidence as proof of any fact in issue.</p> <p>“245 Documents Made Overseas</p> <p>In any proceedings under this Act (other than a prosecution for an indictable offence) the Court may admit in evidence as proof of any fact in issue a document made in a country outside Tuvalu whether the document is legally admissible as evidence in other proceedings or not.”</p> <p>https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2004/2004-0003/ProceedsofCrimeAct_1.pdf</p>

B. Laws regarding paperless trade systems

- 8. Part II of the checklist is focused on laws related to implementing and developing a paperless trade system (including but not limited to a single window system). These matters relate in particular to articles 6 and 7 of the Framework Agreement. The wide scope of article 6 can encompass several aspects of creating an enabling national policy framework for paperless trade. In article 7, parties are specifically encouraged to implement and develop a cross-border paperless trade system, in particular a single window. Accordingly,

in part II, issues related to the implementation of a single window and/or other paperless trade system(s) are covered first. Part II also includes questions on end-user agreements, service-level agreements and memorandums of understanding on paperless trade.

No.	Focus questions	Response
	<p>Related provisions of the Framework Agreement:</p> <ul style="list-style-type: none"> • Article 6 on the national policy framework, enabling domestic legal environment and paperless trade committee. • Article 7 on the facilitation of cross-border paperless trade and development of single-window systems. 	
II.A	<p>Establishment of a paperless trade system</p> <p>The establishment and operation of a paperless trade system often requires a set of dedicated laws and regulations. This section is aimed at identifying those laws and regulations as well as the basic features of governance of the paperless trade systems.</p>	
II.A.1	<p>Does a dedicated paperless trade system, such as a single window, exist? If so, what legal instruments are used to establish and operate it? How do these instruments define the rights and obligations of the participants?</p>	<p>None</p> <p>There is currently no single window system in place in Tuvalu. The Government, through the Department of Customs is currently working on the pilot phase for ASYCUDA which is said to be an enabler of a single window system.</p> <p>The ASYCUDA is being set up under Part 12 of the Customs Revenue and Border Protection Act (CRBPA), which deals with customs computerized entry processing systems.</p> <p>Part 12 of the CPBPA prescribe conditions for accessing the computerized entry processing system, procedures for registering users, conditions for accessing and use of accessing the system using Unique User Identifier and the cancellation of registered user.</p> <p>“PART 12 CUSTOMS COMPUTERISED ENTRY PROCESSING SYSTEMS 125 Access to Customs Computerized Entry Processing Systems A person must not transmit to, or receive information from a Customs computerized entry processing system unless that person is an individual who is registered by the Director as a user of that Customs computerized entry processing system 126 Registered Users</p>

		<p>(1) A person who wishes to be registered as a user of a Customs computerised entry processing system, may apply in writing to the Director in the approved form and is to provide such information in relation to the application as is approved</p> <p>(2) The Director may grant the application to be registered as a user of a Customs computerised processing system on receipt of an application in the approved form, subject to any conditions the Director deems fit to impose, and upon payment of the approved fee; or</p> <p>(3) The Director may refuse to register the applicant if the Director is satisfied that the Applicant is not capable of complying with the conditions of registration.</p> <p>(4) The Director must give notice in writing to the applicant of the Director's decision and if the application is refused, the reasons for refusal.</p> <p>127 Registered Users to be Allocated Unique User Identifier</p> <p>(1) A person who is registered as a user of a Customs computerised entry processing system is to be allocated a unique user identifier for use in relation to that Customs computerised entry processing system by the Director in such form or of such a nature as the Director determines.</p> <p>(2) The unique user identifier allocated under subsection (1) is to be used by the registered user only for purposes of transmitting information to or receiving information from that Customs computerised entry processing system.</p> <p>(3) The Director may, by written notice, impose conditions, on a particular registered user, or on registered users generally, regarding the use and security of unique user identifiers.</p> <p>128 Use of Unique User Identifier</p> <p>(1) If information is transmitted to a Customs computerized entry processing system using a unique user identifier issued to a registered user, the transmission of that information is, in the absence of proof to the contrary, be sufficient evidence that the registered user, to whom the unique user identifier has been issued, has transmitted that information.</p> <p>(2) If the unique identifier is used by a person who is not entitled to use it, subsection 1 does not apply if the registered user to whom the unique user identifier was issued has, prior to the unauthorized use of that unique user identifier; notify Customs that the unique user identifier is no longer secure.</p> <p>129 Cancellation of Registered User</p>
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		<p>(1) If at any time the Director is satisfied that a person who is a registered user of a Customs computerised entry processing system has:</p> <p>(a) failed to comply with a condition of registration imposed by the Director under subsection 126(2), or</p> <p>(b) failed to comply with or acted in contravention of any conditions imposed by the Director under subsection 127(3); o</p> <p>r (c) being convicted of an offence under this Act relating to improper access to or interference with a customs computerised entry processing system; or</p> <p>(d) being convicted of any other offence under this Act; or</p> <p>(e) is considered by the Director not to be a proper person to hold a registration.</p> <p>(f) made entries materially incorrect under section 122(2). the Director may cancel the registration of that person as a user by giving notice in writing to that person and sets out the reasons for that cancellation.”</p> <p>At present the ASYCUDA system uses both hard copy and e-copy. It also aims to facilitate online payments when the Banks upgrade to internet banking in Tuvalu.</p> <p>The Customs Department hopes to interface in the future – Single window</p>
II.A.2	Which government agencies participate in the paperless trade system? On what legal basis?	<p>The current participants of the ASYCUDA are;</p> <p>Customs Department Broker Agriculture, Bio-Security Health Quarantine Immigration Marine</p> <p>Currently no legal basis defining who the participants are.</p>
II.A.3	Is there a central body tasked with setting up and managing the paperless trade system?	Tuvalu Revenue and Customs Department
II.B	<p>Quality of information exchanged with the paperless trade system</p> <p>The main function of the paperless trade system, including the single window, is to facilitate the exchange of trade-related data and documents in electronic form. The information is originally submitted on paper or electronically by commercial operators that have a duty to make complete and correct statements. Moreover, in an electronic environment, there could be special procedures to attribute the declarations originating from the various participants. Electronic signatures may play a significant role in the attribution of the declarations.</p>	

<p>II.B.1</p>	<p>Does the law on the substantive requirements of trade related data and documents also apply to paperless trade?</p>	<p>Yes</p> <p>The customs law currently does not have a dedicated section attributed to paperless trade or the exchange of data and documents in electronic form. The rules under the CRBPA generally affords the same treatment for both paper and electronic data and document. The general rules do not cover the internationally recognized standards and criteria in relation to trade related data and documents in electronic form. It is, therefore, worth reviewing the laws to ensure they are upgraded to the provide a legal recognized paperless trade legal regime.</p> <p>CRBPA Section 3 – Interpretation “Document” means any record of information and includes a document in electronic form.” “Declaration means the provision of all information to Customs whether verbal or in a document or in electronic form by a person relating to the import or export of goods; or the arrival or departure of a craft; or arrival or departure of a person;” “Electronic publication means a thing on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being reproduced or shown as 1 or more images, representations, signs, statements or words”;</p>
<p>II.B.2</p>	<p>Are there specific rules for the exchange of trade-related data and documents in electronic form?</p>	<p>No</p> <p>There are no specific rules for the exchange of trade-related data and documents in electronic form. The rules in the CRBPA relates to the obligation of exporters and importers for the entry, retention and production of documents, records and information.</p> <p>PART 6 ENTRY AND ACCOUNTING FOR GOODS 50 Entry of Imported Goods (1) Subject to any regulations made under section 51, goods that are imported or that are to be imported must be entered by the importer— (a) in such form and manner (including by electronic means into a computer or other device) as may be prescribed; and (b) within such time as may be prescribed or such further time as the Director may allow. (2) Where any entry required by this section relates to goods that are dutiable in accordance with the volume of alcohol present in the goods, the person making the entry must specify the volume of alcohol in the</p>

		<p>prescribed manner. (3) The owner of imported goods or goods that are to be imported must complete a Customs declaration in the approved form at the first port or airport of unloading within such time as may be prescribed by regulation of the arrival of the vessel or aircraft.</p> <p>(4) A person entering goods under this section must;</p> <p>(a) respond to questions asked by a Customs officer with respect to the goods; (b) present the goods upon request by a Customs officer;</p> <p>(c) remove any covering from the goods, unload any conveyance or open any part of it, or open and unpack any package that the officer wishes to examine. (5) If a default is made in the entry of goods under this section or the goods not claim on such period duty becomes due and payable on the goods, and the goods may be sold or disposed of by the Director.</p> <p>63 Tuvalu Certificate of Origin for Goods for Export to Party to Free Trade Agreement</p> <p>(1) A certification body authorized by the Director under section 64 in relation to a party to a free trade agreement may issue a Tuvalu certificate of origin in respect of goods for export to that party.</p> <p>(2) A Tuvalu certificate of origin, in respect of goods for export to a party to a free trade agreement, is a document issued by a certification body that—</p> <p>(a) identifies the goods to which it relates; and</p> <p>(b) certifies that those goods originate in Tuvalu.</p> <p>(3) Goods originate in Tuvalu if, for the purposes of the relevant free trade agreement, the goods satisfy the requirements of the rules of origin prescribed for that agreement.</p> <p>(4) For the purposes of this section, — PICTA means the Agreement establishing the Pacific Island Countries Trade Agreement done at Nauru on 18 August 2001 free trade agreement means:</p> <p>(a) the PICTA; or</p> <p>(b) a Free Trade agreement which Tuvalu is a party to it.</p> <p>82 Importer to Specify Customs Value on Entry</p> <p>(1) A person who makes an entry of goods imported or to be imported must, on making entry, specify the Customs value of the goods, determined in accordance with Schedule 1</p> <p>(2) Every importer or agent of an importer who makes an assessment under subsection (1) must—</p> <p>(a) keep the documents, records, and information in respect of that entry in such manner and for such period</p>
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		as is required by section 97 and any regulations made for the purposes of that section; and (b) when required by Customs, produce those documents, records, and information for the purpose of establishing the accuracy of the assessment
No.	Focus questions	Response
II.C	Service-level agreements and memorandums of understanding A number of legal texts, such as service-level agreements, memorandums of understanding, end-user agreements and other contractual agreements, are relevant to the operation of a paperless trade system. These legal texts define the obligations of the participants in the paperless trade system. For instance, service-level agreements define the obligations of the service provider with respect to the availability of the system, response time, processing time and other technical requirements that are critical to define to ensure the availability and smooth operation of the system.	
II.C.1	Are there service-level agreements or memorandums of understanding governing paperless trade operations? If so, who are the parties and what is the legal authority for concluding these agreements?	No

C. Cross-border aspects

9. Part III of the checklist is focused on the cross-border aspects of paperless trade, which directly relate to the ultimate goal of the Framework Agreement. Certain cross-border aspects are already raised in part I as they relate to general matters that may be relevant to paperless trade facilitation. The questions in part III are specific to cross-border paperless trade facilitation. They are inspired by the Agreement, in particular article 8 on cross-border mutual recognition of trade-related data and documents in electronic form; article 9 on international standards for exchange of trade-related data and documents in electronic form, and article 10 on the relation to other legal instruments enabling cross-border paperless trade.

10. A key issue in achieving seamless cross-border paperless trade is the legal recognition of trade-related data and documents of one country by the authorities of another. Recognition involves attributing a legal status to electronic messages exchanged across borders. A variety of legal mechanisms may achieve that goal. Some of them will apply to certain types of transactions (for instance, business-to-business or business-to-government transactions), while other legal mechanisms will apply only to specific types of documents or data sets, or to specific types of trust services (for example, electronic signatures). Some legal mechanisms will establish legal recognition in a technology-neutral manner, or without regard for the method or technology used, while others will do so in a technology-specific manner. With respect to legal form, some mechanisms are treaty-based and therefore may be directly legally binding. Other mechanisms favour the harmonization of legal systems through the adoption of uniform laws, while still others are

based on bilateral or regional agreements or memorandums of understanding and similar technical arrangements.

11. In article 8 of the Framework Agreement, the mutual legal recognition of trade-related data and documents in electronic form is promoted and the notion of substantially equivalent level of reliability is used to indicate that mutual legal recognition can be based on the general principle of technology neutrality. However, no specific legal recognition mechanism is established. Rather, the expression of this criterion is left open to various options. Accordingly, many of the questions in part III are aimed at identifying which laws and technical arrangements may contribute to achieving mutual legal recognition. The scope of the questions also extends to include the

12. Broader focus of articles 9 and 10 on laws and other relevant agreements that prohibit, restrict or facilitate cross-border data flows for paperless trade and any related activity. An indicative list of relevant international instruments is provided at the end of part III for ease of reference.

No.	Focus questions	Response
	Related provisions of the Framework Agreement: <ul style="list-style-type: none"> • Article 8 on cross-border mutual recognition of trade-related data and documents in electronic form. • Article 9 on international standards for exchange of trade-related data and documents in electronic form. • Article 10 on relation to other legal instruments enabling cross-border paperless trade. 	
III.A	International agreements relevant for cross-border paperless trade facilitation	
III.A.1	Which international agreements relevant to paperless trade facilitation are in force in your country?	Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention, 2006)
III.A.2	Are there technical or operational international agreements providing for legal recognition of electronic communications or documents?	None at the moment
III.A.3	Are contracts used to provide for mutual recognition of electronic communications and signatures?	None that has been discovered so far
III.B	International standards, guidelines and recommendations	
III.B.1	Which standards, regulations or guidelines are in use for the cross-border exchange of trade-related electronic communications?	Customs Revenue and Border Protection Act 2014

		Standards adopted by the above CRBP Act is based largely on the Revised Kyoto Convention, 2006)
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Treaties and model laws relevant to cross-border paperless trade facilitation

13. A number of international treaties are relevant to cross-border paperless trade facilitation, because their adoption and implementation may provide a significant contribution to addressing some or several of the legal challenges arising from cross-border paperless trade facilitation. In particular, those treaties may be useful in achieving legal recognition, usually on a multilateral basis. Model laws may also be useful in facilitating mutual recognition as their enactment by jurisdictions brings national laws closer. Sharing legal concepts and provisions significantly enhances mutual understanding of how the law operates, which may pave the way to granting legal recognition. Additional important provisions may be found in bilateral and multilateral free trade agreements, namely in the chapters on electronic commerce and on customs or trade facilitation. Those agreements and any other relevant legislative texts should be added to the list.⁵⁵

Legal readiness checklist: non-exhaustive list of treaties and model laws

Treaty/Model Law	Implementation status
Customs and trade facilitation	
Association of Southeast Asian Nations (ASEAN) Single Window Agreement (2005) and Legal Protocol (2017)	Not a signatory https://asean.org/about-asean/member-states/

Treaty/Model Law	Implementation status
Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific (2016)	Tuvalu is a member of the UNESCAP since 26 July 1985 and acceded to the agreement on the 15 th December 2022. The Framework Agreement will help Tuvalu accelerate the implementation of digital trade facilitation measures for trade and development
World Trade Organization Agreement on Trade Facilitation (2013)	Not a signatory
Protocol of Amendment to the International Convention on the Simplification and	Tuvalu acceded to the Revised Kyoto Convention on 13 May 2019.

⁵⁵ User may add or delete from the list as necessary.

Harmonization of Customs Procedures (Revised Kyoto Convention, 2006)	This convention's key elements include the application of simplified Customs procedures and optimal use of information technology World Customs Organization (wcoomd.org) pg0291b1_notification_tuvalu.pdf (wcoomd.org)
International Convention on the Harmonization of Frontier Controls (1982)	Not a signatory
Transport	
Convention on the Contract for the International Carriage of Goods by Road (CMR Convention) (1956)	No
Additional Protocol to the Convention on the Contract for the International Carriage of Goods by Road concerning the electronic consignment note (2008)	No
Customs Convention on the International Transport of Goods under Cover of TIR Carnets (1975)	No
Convention concerning International Carriage by Rail (1980)	No
International Maritime Organization Amendments to the Annex to the Convention on Facilitation of International Maritime Traffic, 1965, as amended (2005)	No
International Maritime Organization Guidelines for the Use of Electronic Certificates (2016)	No
United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) (1978)	No
United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (Rotterdam Rules) (2008)	No
Electronic transactions	

United Nations Convention on the Use of Electronic Communications in International Contracts (2005)	Tuvalu acceded to this framework on the 15 th December 2022
UNCITRAL Model Law on Electronic Commerce (1996)	No
UNCITRAL Model Law on Electronic Signatures (2001)	No
UNCITRAL Model Law on Electronic Transferable Records (2017)	No
Convention on Cybercrime of the Council of Europe (Budapest Convention) (2001)	No
Treaty/Model Law	Implementation status
<p>Others (please specify):</p> <p>Tuvalu is a member of the following regional trade agreements;</p> <ul style="list-style-type: none"> ● Pacific Agreement on Closer Economic Relations Plus (PACER PLUS) Pacific Island Country Trade Agreement (PICTA) ● EU – Pacific Interim Partnership Agreement (IEPA) ● South Pacific Regional Trade and Economic Co-operation Agreement (SPARTA) 	<ul style="list-style-type: none"> ● PACER PLUS –The PACER PLUS contains provisions that require member countries to have a system that supports electronic customs transactions and requirements for information received between parties to the Agreement.⁵⁶ Tuvalu recently acceded to the PACER PLUS in 31 January 2022. The Government is slowly working towards implementing the provisions of the Agreement. ● Tuvalu is currently an observer to the iEPA and has triggered plans to accede to iEPA by April 2023. Currently a Cost & Benefit Analysis Study is underway funded by PIFS on Tuvalu’s accession to iEPA. ● Tuvalu is a party to SPARTECA and this agreement has since no longer used. Currently Tuvalu trades under PICTA, PACER PLUS and bilaterally with countries it has signed bilateral agreements with.

D. Other considerations

14. For paperless trade to be conducted in the best possible manner, the Framework Agreement requires parties to create an enabling national legal framework (article 6) and remove all legal barriers. It is therefore recommended that the parties aim to build a national policy framework to implement the Agreement that addresses all the pertinent legal issues and is consistent with international legal instruments and standards for cross-

⁵⁶ Pacer Plus scoping report, Chapman Trip, Department of Trade, Government of Tuvalu

border electronic data and document exchange. Besides the topics specifically addressed in substantive provisions of the Agreement, parties may also wish to deal with related issues, such as data ownership, liability, dispute settlement, electronic payment and competition, which in some cases may have been addressed in other legal agreements (see article 10). These matters may affect the effective operation of single window and other paperless trade systems, particularly in the cross-border environment.

15. These legal issues may be addressed in different sets or sources of legal rules. Therefore, there is no one-size-fits-all solution or approach. The legal framework, action plan and capacity-building programmes may and should be customized at the national level, depending on the various levels of awareness and preparedness of different member States, as already envisaged in article 6, 12 and 14 of the Framework Agreement. The list of legal issues in part IV is not exhaustive, and other relevant issues may emerge.

No.	Focus questions	Response
	<p>Related provisions of the Framework Agreement:</p> <ul style="list-style-type: none"> • Article 6 on the national policy framework, enabling domestic legal environment and paperless trade committee. • Article 10 on the relation to other legal instruments enabling cross-border paperless trade. • Article 12 on the action plan. • Article 14 on capacity-building. 	
IV.A	<p>Ownership of information in the paperless trade system</p> <p>Paperless trade facilitation involves the collection and exchange of a large amount of information. Delicate issues arise with respect to data subject rights, confidentiality and other rights on that information. For instance, the paperless trade system operator may acquire the right to use, analyse and redistribute the information submitted to the system. In other cases, the system may be designed to avoid the storage of any information, so as to simplify compliance with privacy and data retention laws.</p>	
IV.A.1	<p>What defines rights regarding information exchanged in the paperless trade system, the law or contractual agreements?</p>	<p>The relevant laws of Tuvalu have not been reviewed to take into account issues related to rights to data versus confidentiality. Where there are agreements, the rights and obligations are said to be covered under the contractual agreements.</p> <p>The law that most clearly defines rights in relation to information exchange in the paperless trade system is the CRBPA. Although the Act does not single out paperless trade system, it has built in rights and obligations of the persons under its regulation. Rights are tied to ownership or those with control or power of disposition over the goods.</p> <p>An “owner” is defined under the CRBPA as any person being or claiming to be the owner, importer, exporter, consignee, agent, buyer or person possessed of or beneficially interested in or having control of or power of disposition over the goods. The rights of the owner under the CRBPA is provided for in various transactions including include infringement rights of owners in relation counterfeits, rights to confidentiality of protected information and unauthorized disclosure and access. The Act is</p>

		clear also on the conditions for disclosures. Additionally, contractual agreements by norm would prescribe the rights of owners per se in specific trade transactions.
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No.	Focus questions	Response
IV.B	<p>Liability issues related to cross-border paperless trade systems</p> <p>Trading parties and other concerned entities may suffer losses from the incorrect transmission of information and may seek compensation for those losses from those liable for them under contracts among the transacting parties or, if this is not possible, under the general law of civil wrongs. This form of liability is separate from any sanction that may apply under criminal and administrative law.</p>	
IV.B.1	<p>May the operator of the paperless trade system be held liable for providing its services?</p>	<p>There is no legal guideline on liability issues in respect of cross border paper trade system. The relevant provision under Part 12 of the CRBPA is limited to registration, access to computerized system and removal of registered authorized persons. There is inadequate coverage of operator liability in the current law.</p> <p>77 Protection of Persons Acting under Authority of the Act</p> <p>(1) There is no liability against the State, a Customs Officer or against any other authorised person, to recover loss or damages for any act, matter or thing done or omitted to be done in good faith arising from a breach of the provisions of this Act. (2) A person is not exempted from liability under subsection (1) for any act or omission that constitutes bad faith or gross negligence on the part of that person.</p>
IV.B.2	<p>May government agencies participating in the paperless trade system be held liable for their interaction with the system?</p>	<p>Yes</p> <p>There is no one legal source of rules for contractual liability in Tuvalu. Provisions for liability are spread across various legislations and are purpose specific. The CRBPA contains the most relevant provision on liability in relation to paperless trade system including agent-principal liability, customs broker liability, liability of person making payments, and liability of importer, exporter or licensee leaving Tuvalu to pay duty.⁵⁷ In the absence of a specific statute, contractual liabilities are subject to the contractual agreements and general rules about civil liability. The general rules is the same in most countries; the person causes harm by fault must compensate the person harmed, with limits to certain public bodies as provided in Box3 below.</p> <p>263 Liability of the Owner for Actions of a Broker</p>

⁵⁷ CRBPA, Part 12, section 102, 109, 236

		<p>Liability of customs brokers in relation to declarations shall be assumed by the owner where the broker is an authorized agent of the owner.</p> <p>102 Effect of Payment of Duty by One Person on Liability of Other Persons.</p> <p>The liability of a person under this Act for the payment of duty on goods is extinguished by the payment of that duty by any other person liable for the payment of it under this Act unless that duty is subsequently refunded or remitted.</p> <p>109 Payment of Duty by Importer, Exporter or Licensee leaving Tuvalu</p> <p>(1) If the Director has reasonable cause to believe that an importer, exporter, or licensee is about to leave Tuvalu, and- (a) that person is liable to pay any duty; or (b) all duty payable by that person has not been paid; or (c) satisfactory arrangements have not been made for the payment of all duty that is or may be payable by that person— the Director may issue a certificate to the effect that the person is under a liability for duty that is required to be discharged before the person leaves Tuvalu.</p> <p>PART 12 CUSTOMS COMPUTERISED ENTRY PROCESSING SYSTEMS</p> <p>125 Access to Customs Computerized Entry Processing Systems</p> <p>A person must not transmit to, or receive information from a Customs computerized entry processing system unless that person is an individual who is registered by the Director as a user of that Customs computerized entry processing system</p> <p>127 Registered Users to be Allocated Unique User Identifier</p> <p>(1) A person who is registered as a user of a Customs computerised entry processing system is to be allocated a unique user identifier for use in relation to that Customs computerised entry processing system by the Director in such form or of such a nature as the Director determines.</p> <p>(2) The unique user identifier allocated under subsection (1) is to be used by the registered user only for purposes of transmitting information to or receiving information from that Customs computerised entry processing system.</p> <p>(3) The Director may, by written notice, impose conditions, on a particular registered user, or on registered users generally, regarding the use and security of unique user identifiers.</p>
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IV.B.3	May service providers, such as internet service providers and trust services providers, be held liable for interacting with the paperless trade system?	No specific rules. May be subject to the Agreement and general rules about civil liability.
IV.B.4	May other participants in the paperless trade system (e.g. customs brokers) be held liable for their interaction with the system or their role in the passage of information or data passing through their systems?	No specific rules.
IV.C	<p>Dispute settlement and conflict of laws</p> <p>The following section is aimed at examining the dispute settlement mechanisms for the operators of a single window or other paperless trade system.</p>	

IV.C.1	Do national laws deal with choice-of-forum and choice-of-law issues relevant to paperless trade facilitation?	No
IV.C.2	Does the law contemplate alternative means of resolving disputes in international trade, such as arbitration and mediation? Are the results of any such means clearly enforceable across borders?	No
IV.C.3	Are online dispute resolution mechanisms used in paperless trade facilitation?	No
IV.D	<p>Electronic payments and electronic transferable records</p> <p>Electronic payments are the backbone of the digital economy. To the extent that electronic payments are available, they could be incorporated in the paperless trade system. Usually, this is done by using electronic funds transfers, i.e. by ordering a bank to transfer money (wire transfer) or by using credit or debit cards. In other cases, certain commercial documents may be used to perform payment or give guarantee of payment.</p>	
IV.D.1	Does the paperless trade system accept or initiate electronic payments?	ASYCUDA - Yes
IV.D.2	Does the paperless trade system accept electronic transferable records?	ASYCUDA - Yes
IV.E	<p>Competition laws</p> <p>The following section is aimed at examining the competition law issues involved in a single window or other paperless trade system.</p>	
No.	Focus questions	Response
IV.E.1	Does a competition law exist? If so, is it applicable to single window operators or other paperless trade services providers?	None
IV.E.2	Does the law give authorized economic operators preferential access to the paperless trade system?	None
IV.E.3	Are paperless trade service providers selected on a competitive basis? Are foreign providers admitted?	No.