



FS Club Events



Revving Up: How The Digitalisation Of Trade And Trade Finance Is Accelerating

Chris Southworth, Secretary General, ICC United Kingdom

John Taylor, Professor Finance and Trade Law, Queen Mary

11:00, Thursday, 04 April 2024



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A Word From Our Chairman



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Today's Agenda

- 11:00 - 11:05 Chairman's Introduction
- 11:05 - 11:25 Keynote Presentation - John Taylor & Chris Southworth
- 11:25 - 11:45 Question & Answer



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Today's Speaker



John Taylor
Professor of International
Finance and Trade Law
Queen Mary University of
London



Chris Southworth
Secretary General
ICC United Kingdom

Accelerating the Digitalisation of Trade and Trade Finance - Legal Aspects

John L. Taylor

Co-Founder and Director, CASTL

Hon. Professor, CCLS, QMUL



Digital Trade and Trade Finance – Legal Aspects

- In an ideal world, the law globally should:
 1. **Support** all appropriate aspects of commerce undertaken in electronic form,
 2. Confer **legal legitimacy and enforceability** on reliable communications, signatures and contracts in **both electronic and paper form**, and
 3. Provide **cross-border use and recognition** of electronic identities and freedom of contract in international electronic trade and trade finance transactions.
- **Many precedents encourage this**, including UNCITRAL model laws and UN Conventions, some first published 30 years ago.

Barriers to Digitalisation of Trade and Trade Finance

- A major barrier to digitalisation has been **the law in many countries relating to key documents used in trade and trade finance**, including **promissory notes, bills of exchange, insurance documents and bills of lading/shipping documents**.
- These documents have a **special legal status**, giving the person in physical “**possession**” of the document the right to claim performance of the obligation recorded in the document (e.g. payment of money or the delivery of goods). These can be transferred only by the physical transfer of possession of the document. Some of these documents are, in law, also “**negotiable instruments**”, similarly transferable.
- **But the law says information in digital form is not capable of physical possession.**
- **Good News: laws are changing**, thanks to alignment with the **UNCITRAL Model Law on Electronic Transferable Records 2017 (MLETR)**.

The Core Principles of MLETR

In brief, MLETR applies to the documents discussed above, describing them as “**electronic transferable records**” if they are the **functional equivalent** of paper-based transferable documents. To achieve functional equivalence, MLETR:

- Requires that an electronic transferable record must contain **the information** that would be required in a paper-based document, identify the record as an electronic transferable record capable of being subject to **control**, and retain its **integrity** i.e. be complete and unaltered;
- Provides that **possession** is met if the record is in **the exclusive control of an identified person**;
- Requires that a **reliable method, judged against a set of standards**, be used to determine the foregoing, as well as to judge the **reliability** of other topics.
- Clarifies that an electronic transferable record issued or used abroad should not, for that reason, be denied legal effect or enforceability.

The laws of many countries are being **aligned to MLETR principles**.

UNCITRAL MLETR-Aligned Legal Reforms

Aligned

- Bahrain (2018)
- Belize (2021)
- Kiribati (2021)
- Papua New Guinea (2022)
- Paraguay (2021)
- Singapore (2021)
- United Arab Emirates (ADGM 2021)
- United Kingdom (2023)*

Reform in Progress

- France (2024) *
- Germany (2024)*
- Japan (2024)*
- United States (State level – 2023 and ongoing)*
- >22 Other Countries – ICC-DSI MLETR Tracker (2024 onwards)

* G-7 Digital and Tech Ministers have committed to promote MLETR reforms.

Action Needed: Do Not Get Left Behind

- **Encourage MLETR-aligned law reform in all countries.** For more information on the law and other reforms that are needed, see Blueprint Paper at: <https://static1.squarespace.com/static/608c33aec2bbf925d5f78171/t/644ad6431527c9390235faac/1682626136831/CASTL+EBRD+Blueprint+Paper+on+Digital+Trade+and+MLETR+April+2023.pdf>
- **Help to build global industry-wide acceptance** of digital trade documents. See for example: <https://static1.squarespace.com/static/608c33aec2bbf925d5f78171/t/6423047494da7322889d2906/1680016512109/Making+Thai-UK+trade+cheaper%2C+faster%2C+simpler+--+March+2023.pdf>
- **Join the industry wide development of digital trade products** described by ICCUK C4DTI at: https://cdn.shopify.com/s/files/1/2992/1976/files/Seizing_the_moment_-_Unleashing_the_potential_of_trade_digitalisation_report_November_2023.pdf?v=1701112736.



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Comments, Questions & Answers



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Question & Answer

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Forthcoming Events

- Monday, 08 April 2024 (15:00 - 15:45 GMT) Intelligent Money: Our Future Is Where We Do Not Think About Money, As Our Money Thinks For Us
- Wednesday, 10 April 2024 (11:00 - 11:45 GMT) The Future Of The Arts And Humanities: The First 25 Years Of The Arts And Humanities Research Council
- Thursday, 11 April 2024 (14:00 - 14:45 GMT) Intellectual Curiosity: How The Growth Of Institutions Like The Athenaeum Club Have Contributed To The Life And Success Of London

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