

Implementing URDTT

Uniform Rules for Digital Trade Transactions

VERSION 1.0

URDTT

Implementing URDTT Version 1.0

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Introduction

The rules deliver a collective understanding of terms and definitions, while promoting and encouraging the usage of electronic records/documents/data.

Background

The Committee thought that the ICC could render a practical service to international trade by seeking to obtain international uniformity in this matter.

Fascinatingly, the above does not refer to the Uniform Rules for Digital Trade Transactions (URDTT). In fact, it was a statement made by Wilbert Ward, the US representative at the Fourth ICC Congress that took place in Stockholm from 27 June to 2 July 1927, during which the standardisation of export commercial credits was discussed.

Today, almost a century later, the ICC continues to develop and publish global trade rules that provide practical services to the international trade community.

Recent events have catalysed the move from paper to digital, as can be referenced in the ICC publication 'Trade Finance and COVID-19'.¹

Moreover, recognition is now apparent at the highest levels, with the G7 Trade Ministers announcing that in order to cut red tape and enable more businesses to trade, governments and industry should drive forward the digitisation of trade-related documents, including through means of addressing legal, technical, and commercial barriers to the digitisation of paper processes.²

The URDTT are a significant supportive step along this path.

Mandate

The ICC Banking Commission Executive Committee provided the ICC Working Group on Digitalisation in Trade Finance with a mandate to proceed with a first revision of the Uniform Rules for Bank Payment Obligations (URBPO) in order to address the evolution of new technologies impacting trade and trade finance.³

The Working Group carried out a detailed analysis of the current and future requirements of a Bank Payment Obligation (BPO) and concluded that a revision of URBPO would not provide a satisfactory solution.

Accordingly, a revised mandate was subsequently issued to proceed with the drafting of a new set of rules that would essentially be agnostic in nature with regard to underlying technology and would effectively address the gaps in digital trade, focusing on the use of data in digital trade transactions.

It was agreed that the URBPO would continue to support existing and potential new users for whom the BPO represented a satisfactory construct, and that the new rules would be independent from, but compatible with, the ongoing use of the BPO in its current state.

It was noted at the time that there may be resistance to this new set of rules given that they would, of necessity, deviate from the traditional bank-centric approach.

1 <https://iccwbo.org/publication/trade-financing-and-covid-19/>

2 <https://www.gov.uk/government/news/g7-trade-ministers-digital-trade-principles>

3 <https://iccwbo.org/global-issues-trends/banking-finance/icc-digitalisation-of-trade-finance/>

However, being cognisant of the many other participants involved in a commercial transaction, and the growing influence of non-bank service providers, it was recognised that failure to adopt a new approach would not only reinforce the trend towards digitalised sequestration in the trade finance market place, but also result in the economic benefits of digitalisation not being fully realised, with a concomitant negative impact primarily impacting on the SME business community.

Drafting

In all, this comprised the completion of six drafts with over 1,500 comments received from ICC National Committees, each responded to on an individual basis.

Voting on the rules concluded on 29 June 2021, with significant majority support delivered for the adoption of the URDTT Version 1.0.

The use of version numbers allows for a more focused and shorter revision of the rules as and when technological advances are made, or where market trends develop or expand from time to time.

The rules came into effect from 1 October 2021.⁴

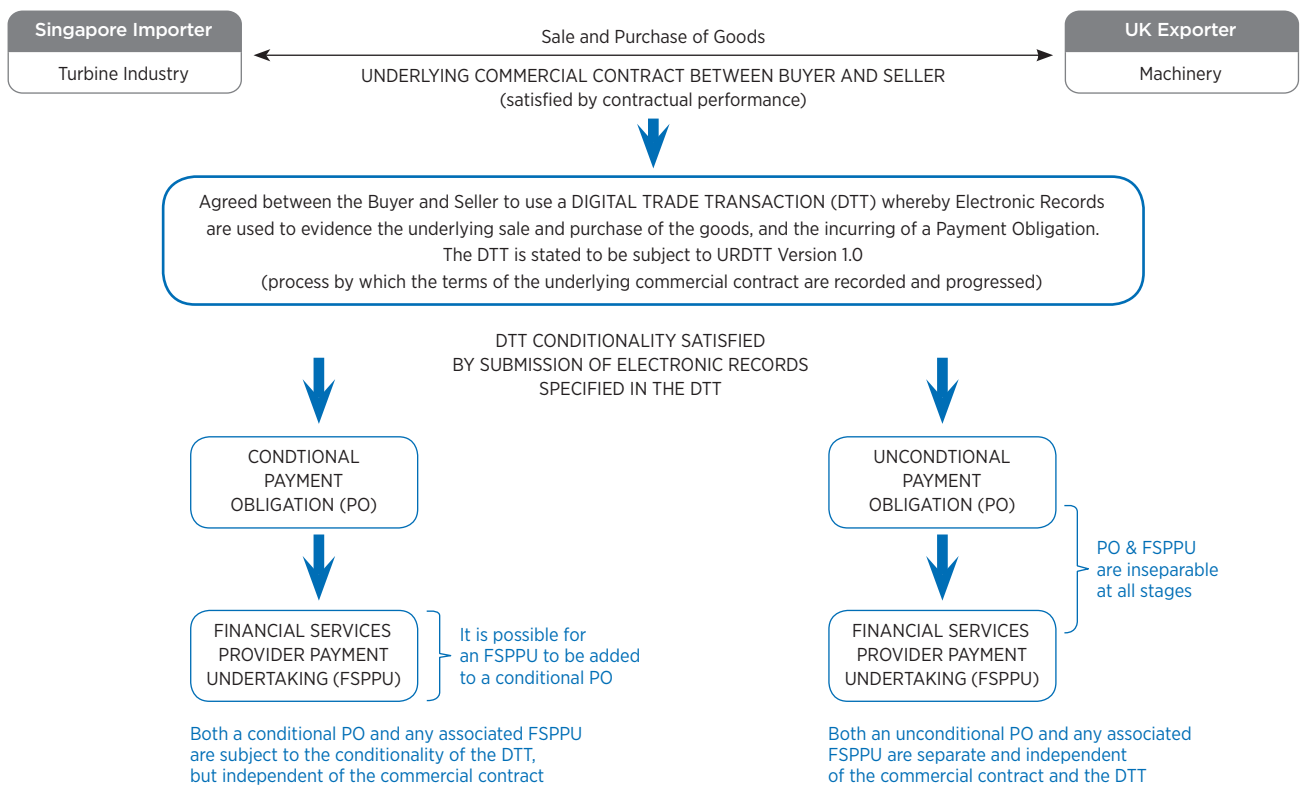


Figure 1: High-level process

- A Digital Trade Transaction (DTT) is a representation of the underlying transaction and is the process by which the terms of the commercial contract between the seller and the buyer are recorded and progressed. Intrinsicly, a DTT is distinct from the commercial contract.

⁴ https://2go.iccwbo.org/uniform-rules-for-digital-trade-transactions-urdt-version-1.html?_cldee=ZGF2aWRtZXluZWxsQGfVbC5j-b20%3d&recipientid=contact-689a10b76830e911a99c000d3ab38525-5a4f27ebb3c34a15ac2ea3f1fdfed756&esid=87d220a9-eb24-ec11-b6e5-000d3abad39c

- The possibility exists for two sets of electronic records to be specified in the terms and conditions of the DTT.
 - i) Electronic records that evidence the underlying sale and purchase of the goods or services.
 - ii) Electronic records that evidence the actual delivery/receipt of those goods or services.
- A conditional Payment Obligation (PO) is incurred by a buyer upon compliance by the seller with i) above.
- An unconditional PO is incurred by a buyer upon compliance by the seller with ii) above.
- At the time a seller complies with a DTT, the seller is then known as a beneficiary.
- A Financial Services Provider (FSP) Payment Undertaking may be added to a PO at any time, including when the latter is conditional.
- When an FSP Payment Undertaking is added to a PO, it is inseparable from the PO to which it relates.
- The conditionality of a PO and an FSP Payment Undertaking is to be defined in the DTT. As such both the PO and the FSP Payment Undertaking are, at this stage, subject to the conditionality of the DTT.
- Note that the connection is between the PO/FSP Payment Undertaking and the DTT, not between the PO/FSP Payment Undertaking and the commercial contract.
- The PO and FSP Payment Undertaking become unconditional when the DTT conditionality has been satisfied (ii above). At this point, the PO and FSP Payment Undertaking are separate from, and independent of, the DTT.
- Note that satisfaction of the DTT conditionality is not synonymous with satisfaction of the commercial contract. The DTT conditionality is satisfied by the submission of electronic records specified in the DTT. The commercial contract is satisfied by contractual performance.
- The PO is always independent of the commercial contract and becomes independent of the DTT once the latter's conditionality has been satisfied. As the FSP Payment Undertaking is added to, and inseparable from the PO, the same applies to the FSP Payment Undertaking.
- Financial Services Providers that use the PO/FSP Payment Undertaking as the basis for the provision of finance are isolated from any disputes arising in respect of the commercial contract.

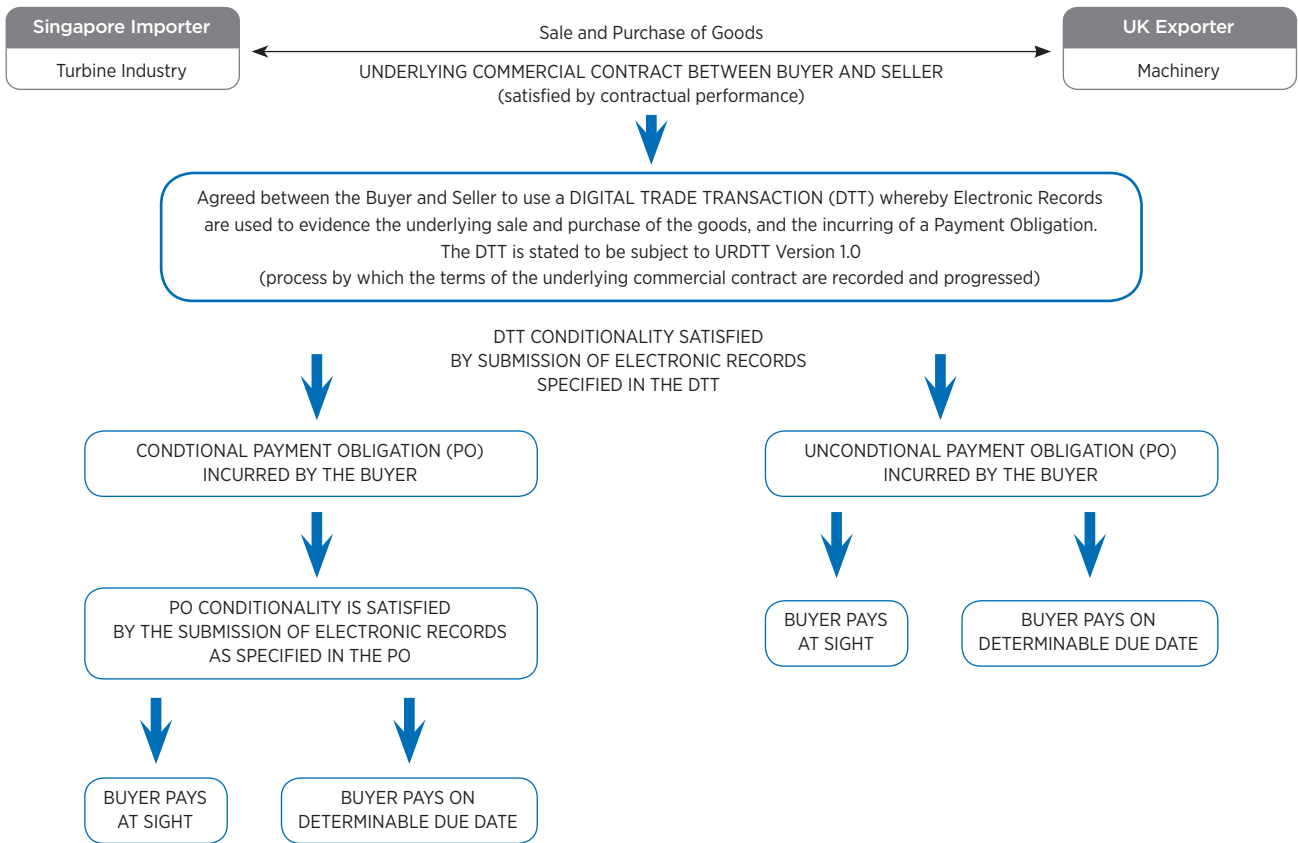


Figure 2: Buyer and Seller

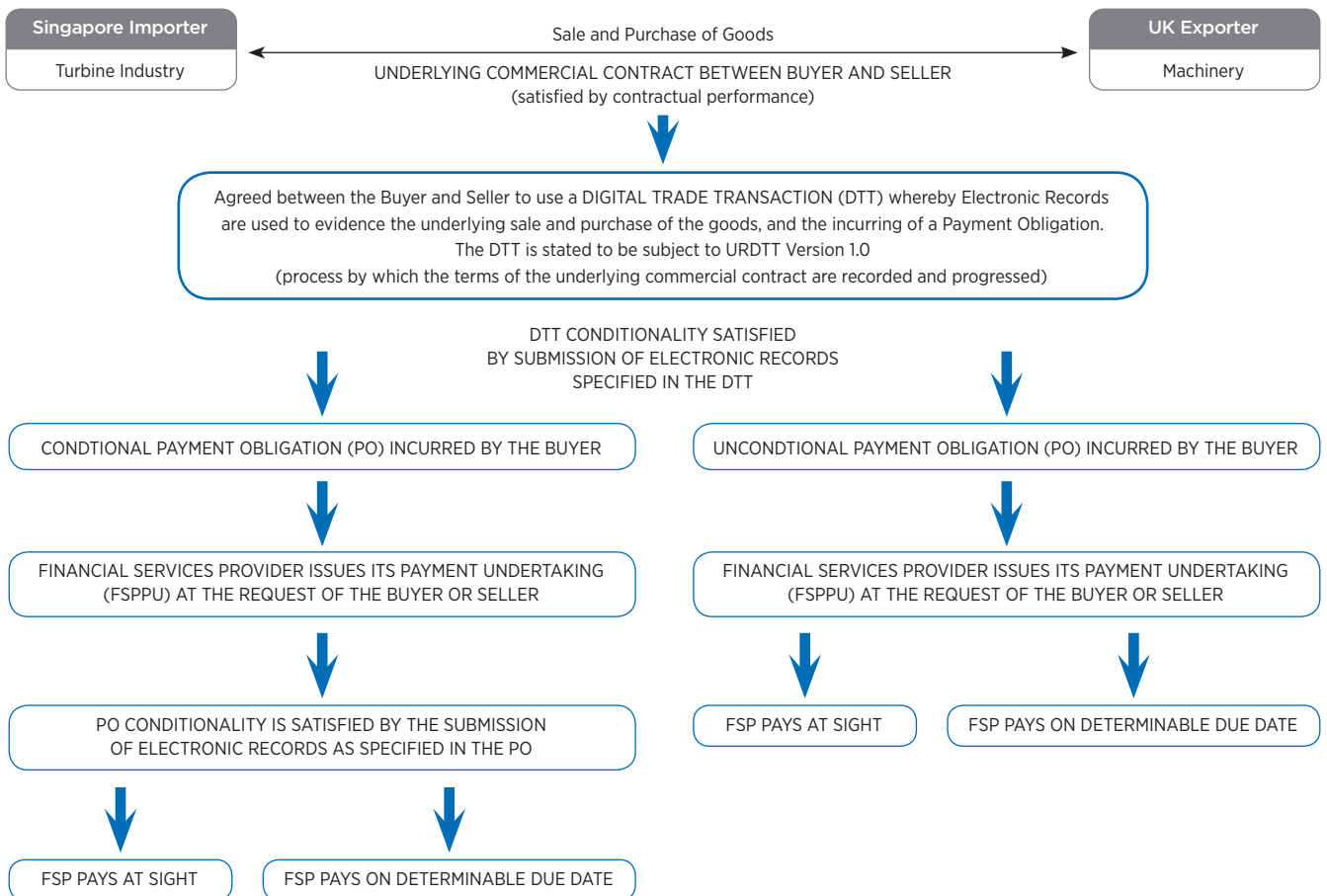


Figure 3: Buyer and Seller with Financial Services Provider

Buyer/seller agreement

The underlying commercial contract mentioned in figure 1 needs to be precisely detailed.

The ICC Model International Sale Contract⁵ provides a template for the presentation of a set of clear and concise standard contractual conditions for the most basic international trade agreement.

This model contract is specifically adapted for transactions governed by the UN Convention for the International Sale of Goods (CISG)⁶ that applies to an increasingly large volume of international sales. The purpose of the CISG is to provide a modern, uniform, and fair regime for contracts for the international sale of goods.

Refer to section 3 under '*Buyer and seller agreement*' for guidance as to the content of a DTT.

Definitions

The URDTT definitions are modelled on the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Transferable Records (MLETR).⁷

The only area identified to date as one for possible misperception regarding divergence between the URDTT and local electronic commerce law⁸ relates to the degree of authenticity required for electronic records and the meaning to be attached to a requirement for an electronic signature.

Where there is a mandatory requirement under local electronic commerce law for a higher degree of authenticity than would be required under the URDTT, local electronic commerce law may impose additional requirements on an electronic presentation.

Reference should also be made to URDTT sub-articles 7 (e) and 7 (f):

- Sub-article 7 (e) highlights that, unless applicable law requires otherwise, a requirement that information should be in writing is satisfied when an electronic record containing such information is accessible to an addressee and is not affected by any data corruption.
- As stated in sub-article 7 (f), where the applicable law requires or permits delivery, transfer or possession of an electronic record, that requirement or permission is met by the transfer of that electronic record to the exclusive control of the addressee.

It should also be borne in mind that in order to have validity under local law, it is often necessary for certain paper documents to be signed. Some laws also define terms such as '*sign*' and '*signature*'.

This has advanced further in recent times with the formulation of electronic commerce laws which now address electronic records and their method of authentication. As such, and in order to remain in line with existing law, most electronic commerce laws include definitions for terms such as '*sign*' and '*signature*'.

5 <https://iccwbo.org/media-wall/news-speeches/new-icc-model-international-sale-contract-hits-the-shelves/>

6 https://uncitral.un.org/en/texts/salegoods/conventions/sale_of_goods/cisg

7 https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_transferable_records

8 For example, the MLETR does not affect in any manner the law applicable to transferable documents or instruments, which is referred to as "substantive law" and includes rules on private international law.

Platform service providers

As highlighted in the approved mandate for the URDTT, there were, at the time, at least 8 consortia developing proofs of concept in the traditional trade as well as the supply chain finance space.

This has now expanded to several more parties. Each of these are data-driven and require the establishment (or definition) of conditional and unconditional Payment Obligations which may shift among participants depending upon underlying commercial events which are activated via data provided from differing participants in the transaction.

Rule books are being developed in each consortium to address how the participants engage, their roles and responsibilities, and the junctures where a Payment Obligation may exist, be transferred, and become established as unconditional.

The objective of the URDTT is to develop a high-level structure under which the above-referenced consortia can operate by referencing the URDTT in the establishment and execution of financial obligations within their own unique process and technology constructs. As a result, the rules will augment the avoidance of repetition with '*platform*' rulebooks, while promoting and supporting the usage of electronic records.

Digital vs. Electronic

In view of the fact that URDTT sub-article 1 (b) clearly states that the process utilises electronic records, there is no need to define '*digital*'.

Electronic records are defined in article 2. As with the eUCP, the URDTT definition of '*electronic record*' encompasses digitised records ('*data created ... by electronic means*') but is broader than that.

Autonomy

A financial services provider does not deal with the goods or services to which an electronic record submitted under a DTT refers.

Adherence to the URDTT

The DTT must indicate the applicability of the URDTT and sub-article 1 (d) indicates that the version number of the URDTT must be indicated, otherwise the applicable version will be that which is in effect when the DTT is first agreed by the buyer and seller.

It would not make practical sense if any parties involved in a DTT that is subject to the URDTT, did not then comply with the rules.

Concept of 'confirmation'

During the drafting of the rules, it was concluded that the term '*confirmation*' had too many connotations, not only to documentary credits, but also to the paper world.

As a result of this conclusion, a new term '*FSP Payment Undertaking*' has been introduced.

Fraud

It would be far more difficult to experience fraud in specific electronic records submitted under a DTT than in today's paper world, provided that adequate authentication practices are used. That is not to say that fraud can be eliminated from such transactions simply by the use of electronic submission, but only that the possibilities for fraud become more limited.

Data privacy and data breach

Both these issues are outside the scope of the rules and will be mandated by market practice. The rules are only concerned with data corruption.

Electronic record vs. electronic document

For the purposes of the URDTT, the terms are synonymous and have the same meaning. As stated in the URDTT definitions, the term document shall include an electronic record.

ICC eRules

Regarding any links with the eUCP & eURC (eRules),⁹ the scope of the eRules is entirely different.

The eRules are supplements to UCP and URC, designed to accommodate the presentation of electronic documents under documentary credits and collection instructions respectively.

Accordingly, the eRules will continue to exist in their own right alongside URDTT.

As such, at this stage, there are distinct reasons for the continuing existence of each individual set of rules.

In addition, the URDTT do not supplement existing rules that allow for paper—the rules are digital only.

Commercialisation

At the inception of the drafting process, the Drafting Group were given a strict mandate to develop a high-level framework outlining obligations, rules and standards for the digitalisation of trade transactions.

This was, and is, the purpose of the rules.

This work is now complemented by the Commercialisation sub-stream, established in 2021, with involvement by the Drafting Group and cross-industry representation from all key trade regions.

The Commercialisation Group is examining both the URDTT and the ICC eRules, and is developing a framework to evaluate the challenges and ideas to drive commercialisation and adoption forward.

It is planned that this will result in a comprehensive plan and associated recommendations.

⁹ <https://iccwbo.org/media-wall/news-speeches/icc-banking-commission-releases-new-erules-use-electronic-documents/>

ICC Digital Standards Initiative (DSI)

The DSI¹⁰ is committed to promoting policy coherence and harmonising digital trading standards for the benefit of businesses, governments, and people everywhere.

Working with established standard-setting bodies and international organisations, the DSI will drive greater adoption of existing standards, create new frameworks to unify digital trade processes and support the seamless digitisation of processes throughout the global trading system.

Future work on the URDTT will ensure liaison with the DSI.

¹⁰ <https://www.dsi.iccwbo.org>

Benefits

The rules serve as an overarching framework for Digital Trade Transactions thereby providing global standardisation, consistency and conformity.

First and foremost, the rules focus entirely on a digital environment, thereby allowing the involved participants to submit and share information digitally.

As with all ICC rules, the URDTT are independent and neutral and provide a collective understanding of terms and definitions.

As a result, the rules will augment the avoidance of repetition with 'platform' rulebooks, while promoting and supporting the usage of electronic records.

The URDTT do not prohibit or constrain the continued use of existing policies, and are designed to provide a structure under which other rulebooks can co-exist.

A thorough understanding of the rules will encourage competition by financial services providers in respect of financing / risk mitigation solutions.

Of significant importance is that the rules align with the '*Framework for G7 collaboration on Electronic Transferable Records*'¹¹ to promote the adoption of legal frameworks compatible with the UNCITRAL Model Law on Electronic Transferable Records (MLETR).¹²

The content of the URDTT will be continually monitored and updated in order to maintain applicability in the digital environment.

Moving towards a digital environment will result in cost and efficiency savings on all sides, while also introducing a competitive advantage.

Buyer and seller

Benefits derive from a totally digital process, ensuring standardisation, and access to various activation points for financial services providers to provide risk mitigation and settlement solutions.

The URDTT are not bank-centric, and build entirely from the buyer / seller relationship, focusing on the Payment Obligation that arises between the buyer and the seller.

These are the first set of rules that focus on the buyer and seller, certainly in a digital world, while retaining the risk mitigation and settlement solutions that financial services providers can provide.

In view of the neutrality of the rules, they can be easily assimilated into the underlying commercial contract between the buyer and the seller, thereby avoiding the requirement for 'paper' processing, with both parties agreeing to use a DTT subject to URDTT whereby electronic records are used to evidence the underlying sale and purchase of the goods, and the incurring of a Payment Obligation.

The DTT is a representation of the underlying commercial contract and is the process by which the terms of that contract are recorded and progressed. Intrinsically, a DTT is distinct from the commercial contract.

¹¹ <https://iccwbo.org/media-wall/news-speeches/icc-welcomes-g7-ministerial-declaration-on-the-digital-and-technology-agenda-to-build-back-better/>

¹² https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/mletr_ebook_e.pdf

Accordingly, satisfaction of the DTT conditionality is not synonymous with satisfaction of the commercial contract. The DTT conditionality is satisfied by the submission of electronic records specified in the DTT. The commercial contract is satisfied by contractual performance.



Figure 4: Benefits for buyer and seller

Financial Services Provider

A digital environment brings with it a reduction in overall operational cost and an improvement in general exactness.

More importantly, providing clients with enhanced risk and settlement solutions will intensify the portfolio of trade financing mitigants that can be offered, thereby strengthening core relationships.

Preparations for Usage

In this section, reference is made to various generic themes which should be taken into account when utilising the URDTT. These topics are not all-inclusive and other matters may require consideration.

Buyer and seller agreement

A DTT is a representation of the underlying transaction and is the process by which the terms of the commercial contract between the buyer and the seller are recorded and progressed.

In respect of the URDTT, the underlying contract between the buyer and the seller requires agreement by both parties on the below:

- to use a Digital Trade Transaction subject to URDTT Version 1.0.
- to use electronic records evidencing the underlying sale and purchase of the goods (or services) and the incurring of a Payment Obligation by the buyer.
- specification of the terms and conditions by which compliance of an electronic record will be determined.
- on the actual electronic records to be submitted, by whom they are to be issued, their data content, and the time frame in which they are to be submitted
- that the terms and conditions of the DTT will be incorporated, by reference or otherwise, in the buyers Payment Obligation.
- on the capability of the required data processing systems.
- on the required acceptable format for electronic records.
- that the seller can submit any required electronic records.
- on any required authentication, if any, for specific electronic records.
- that the DTT will reflect the underlying commercial contract in sufficient specificity.
- any required modification or exclusion to the URDTT.
- whether partial submission of electronic records is permissible.
- if required, designation of a forum for dispute resolution.
- agreement, if required, to any specific addresses.
- the applicable law.

Figure 5: Buyer/Seller agreement

Operational impact

Any party or person involved in the handling of a DTT should be fully aware of the content of the URDTT, as well as being cognisant of any required technology changes related to the processing of electronic records.

Operational issues are covered in more depth in section 4.

Legal

No conflict has been identified, thus far, between the URDTT and any eCommerce laws.

This is most certainly the case with the UNCITRAL Model Law on Electronic Transferable Records (MLETR)¹³, which is the focus of many existent and ongoing global regulatory initiatives.

However, it is worth noting that when there is a mandatory requirement under local electronic commerce law for a higher degree of authenticity than would be inferred under the URDTT, local electronic commerce law may impose additional requirements on the submission of electronic records.

From an internal perspective, those intending to be involved in a DTT should review current customer agreement templates in order to ensure that issues such as formats for electronic records, authentication, and electronic signature requirements are covered.

Technology

It is essential that internal data processing systems can handle the relevant formats for electronic records, authenticate messages, and execute electronic signatures. In view of the fact that the rules are technology neutral, it is up to the parties concerned to decide the most appropriate method of processing.

Although at this stage, there are no recommended minimum standards surrounding data processing systems, the below may be useful as a guide:

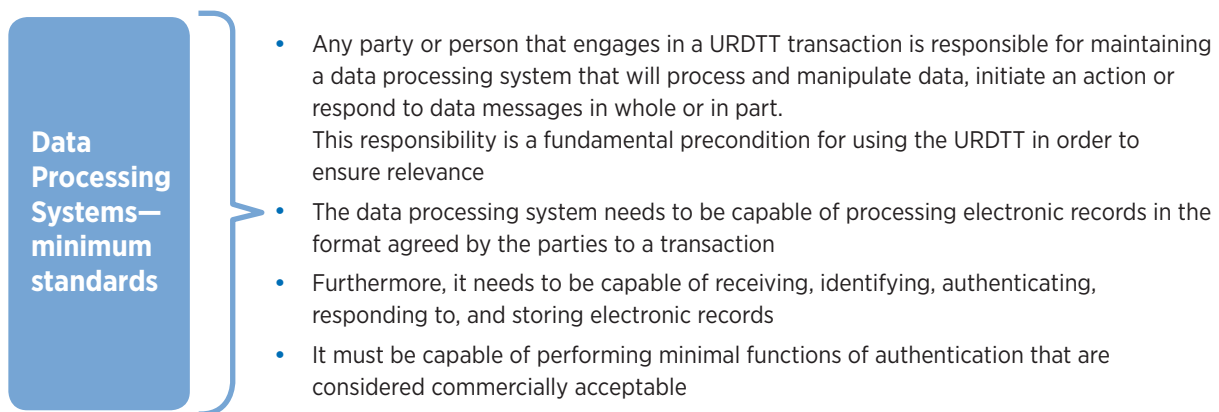


Figure 6: Minimum standards for Data Processing Systems

Electronic records—‘capable of being authenticated’

As stated in URDTT article 2, this is a pre-requisite for an electronic record.

Authentication in the paper world is the process by which the validity of the representations and the paper documents containing them are ascertained. There are, necessarily, various levels of authentication.

In the digital world, there is a greater deal of focus on the authentication of data. Although referenced in URDTT articles 2 and 6, it is deliberate that ‘authentication’ is not defined.

It does, however, link the term to, and embody its meaning for purposes of, the URDTT in its definition of ‘*electronic record*’.

The basis for this approach is the belief that any purported definition would either unnecessarily duplicate the definition of ‘*electronic record*’ or, potentially, provide a specific link to existing technology.

13 https://uncitral.un.org/en/texts/e-commerce/modellaw/electronic_transferable_records

Current and evolving technology allows for numerous commercially practical techniques in order to authenticate an electronic record while applying the criteria in the URDTT definition of an electronic record. It can only be decided by the involved parties or persons as to the actual level and measure of security to be used in authenticating an electronic record.

National laws may also impose specific requirements for the authentication of an electronic record.

Electronic records—‘capable of being examined’

As stated in URDTT article 2, this is a pre-requisite for an electronic record.

The URDTT require that, in order to qualify as an electronic record for purposes of the URDTT, data must be capable of being examined for compliance with the terms and conditions of a DTT.

This requirement is inherently linked with the definition of ‘received’ in URDTT article 2.

An electronic record must be in a ‘format’ that is capable of being accepted by a data processing system and being examined by the addressee for compliance with the terms and conditions of a DTT.

Format of an electronic record

The term ‘*format*’ is used in several logics. It can mean the protocol by which data is organised, the version of that format, or the shorthand name by which that protocol is recognised and described.

There is no precise distinction between these approaches, and the manner in which it is intended they be used can normally be identified from the context in which ‘*format*’ is used.

It is recommended that a DTT indicate, with sufficient specificity, the format in which it requires data in any electronic records to be arranged.

‘*Format*’ is covered in more depth in section 4.

Electronic signature

Although at this stage, there are no recommended minimum standards surrounding electronic signatures, the below may be useful as a guide:

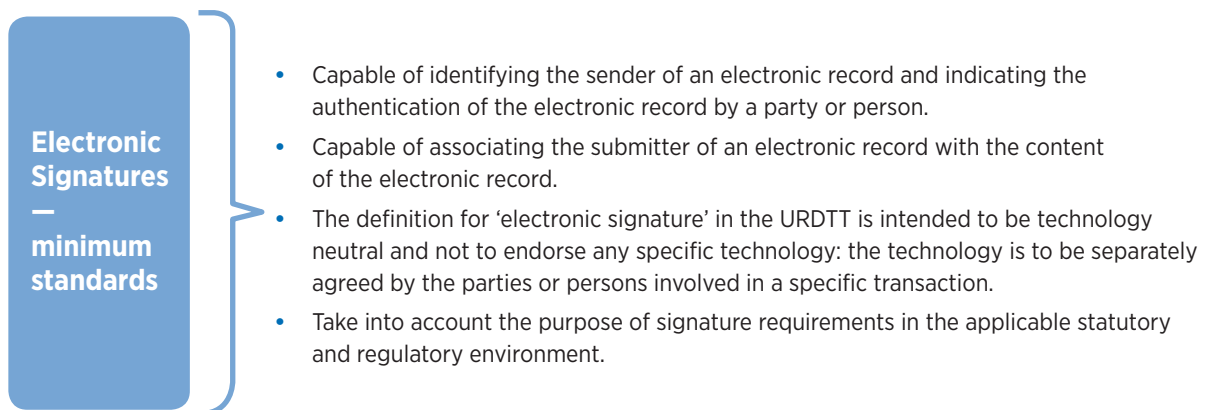


Figure 7: Minimum standards for Electronic Signatures

‘Examination’ of electronic records

In order for electronic records to be ‘*examined*’ for compliance, it must be ensured that the necessary technological and operational capabilities are in place.

In order to avoid difficulties, careful thought must be given to the format in which the data is required to be submitted, and that the data which will be displayed by a data processing system will be sufficient to ensure that it is relevant to an ‘*examination*’ of the electronic record.

Operational Issues

In order to gain optimal benefit from the URDTT, a clear understanding of applicable operational issues is essential. The below should not be considered as all-inclusive, but will provide essential guidance in many key areas.

Underlying commercial contract

It is contingent upon the rules for an underlying commercial contract between the buyer and the seller to be in place.

Within such contract, it should be agreed between the buyer and the seller to use a DTT, stated as subject to URDTT Version 1.0, whereby electronic records are to be used to evidence the underlying sale and purchase of the goods (or services), and the incurring of a Payment Obligation.

It is worthwhile at this stage, for the buyer and the seller to carefully consider the electronic records required for submission, by whom they are to be issued, their data content, and the time frame in which they are to be submitted.

Only electronic records that are necessary should be required by the DTT.

During this discussion, it should be clarified that the seller can submit any required electronic records, and that such electronic records will be in a format acceptable to both parties.

Cross-reference section 3 '*Buyer and seller agreement*'.

Version numbers

URDTT sub-article 1 (d) makes it clear that the URDTT are issued in versions, with the current version being Version 1.0.

As a matter of good practice, it is always recommended that a DTT indicate the applicable version, rather than leave it open to possible misinterpretation.

Should a version number not be stated, sub-article 1 (d) clarifies that the DTT would be subject to the latest version in effect on the date the DTT is first agreed by the buyer and seller.

Digital Trade Transaction (DTT)

As stated in URDTT sub-article 1 (b), a DTT is a process, as agreed between the buyer and the seller, whereby electronic records are used to evidence the underlying sale and purchase of goods or services, and the incurring of a Payment Obligation.

The terms and conditions of the DTT, which must state that the DTT is subject to URDTT, need to reflect the underlying commercial contract in sufficient specificity, while ensuring provision for the incurrance of a Payment Obligation by the buyer.

Additionally, and in accordance with URDTT sub-article 7 (a), the DTT must specify the terms and conditions by which compliance of an electronic record will be determined.

As mentioned previously:

(a) only electronic records that are necessary should be required by the DTT; and

- (b) the possibility exists for two sets of electronic records to be specified (as set out) in the DTT.
- i) Electronic records that evidence the underlying sale and purchase of the goods or services, as well as evidence of the actual delivery/receipt of those goods or services.
 - ii) Electronic records that evidence the underlying sale and purchase of the goods or services i.e., contractual terms and terms for delivery etc. Together with an additional set of electronic records that, for example, evidence the actual delivery/receipt of those goods or services.

In the case of (i), an unconditional payment obligation would be incurred by the buyer upon compliance by the seller with the terms and conditions of the DTT.

In the case of (ii), a conditional payment obligation would be incurred by the buyer upon compliance with the first set of terms and conditions of the DTT. An unconditional payment obligation would automatically be incurred by the buyer upon compliance by the seller with the second set of terms and conditions of the DTT.

Under URDTT sub-article 17 (a), the terms and conditions of the DTT should state the applicable law.

DTT template

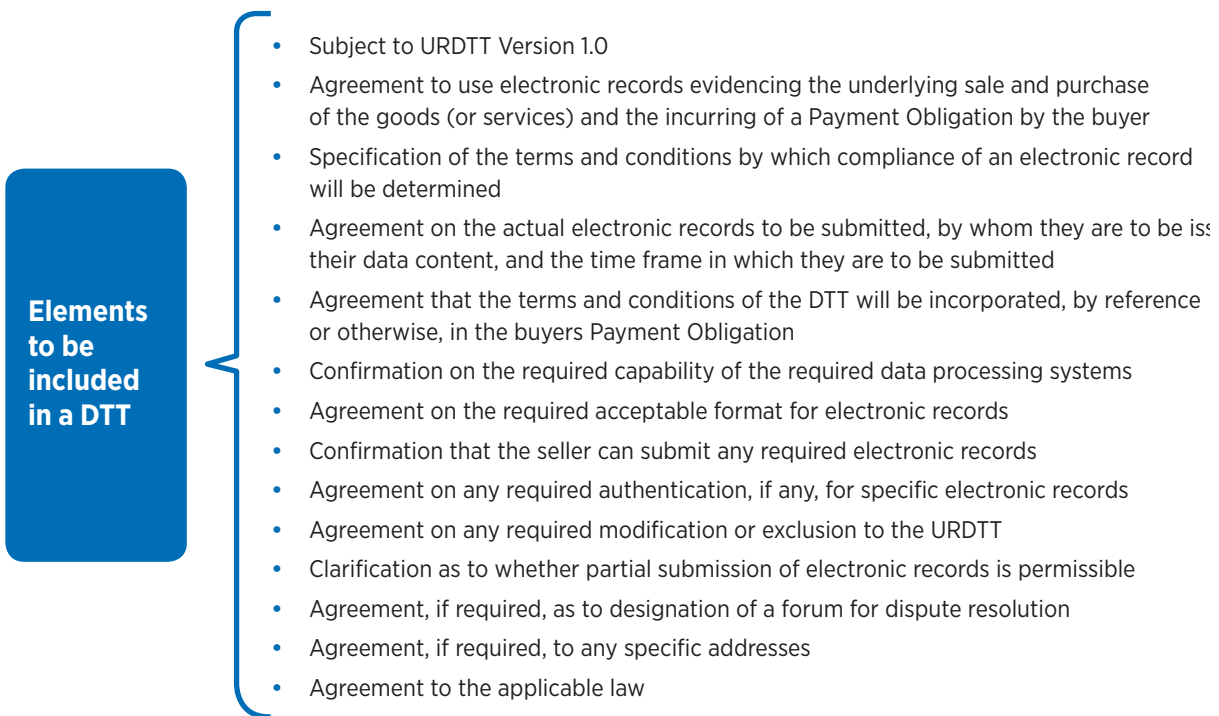


Figure 8: Data elements for a DTT

Payment Obligation

The terms and conditions of the DTT will be incorporated, by reference or otherwise, in the buyers Payment Obligation.

As highlighted in URDTT sub-article 12 (a), when a Payment Obligation is stated to be conditional, the obligation of the buyer is to pay upon compliance with the terms and conditions of the DTT by the seller.

As of that moment, the Payment Obligation is automatically amended to become unconditional and independent. Refer *Digital Trade Transaction (DTT)* above.

The Payment Obligation must include the data elements stipulated in URDTT sub-article 12 (c), and whether or not it is conditional or unconditional.

Furthermore, in accordance with URDTT sub-article 12 (d), it may specify in its terms and conditions that it is transferable.

Payment Obligation template

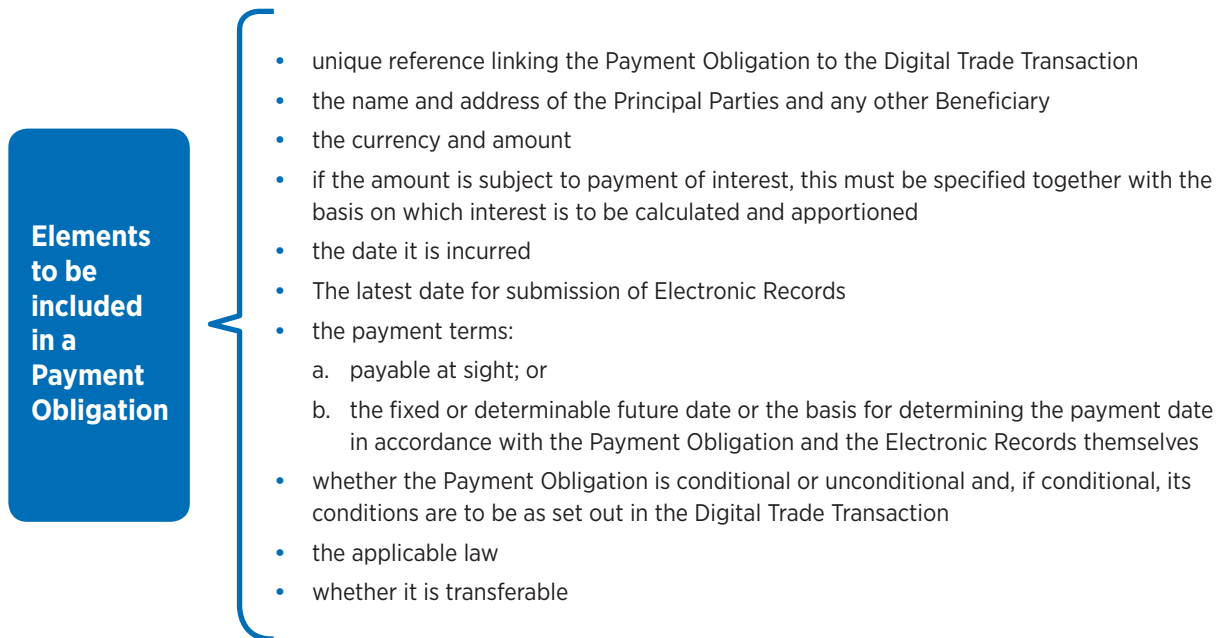


Figure 9: Data elements for a Payment Obligation

In the above figure, the last bullet is not a data element according to article 12.

Financial Services Provider Payment Undertaking

A financial services provider (FSP) Payment Undertaking can be added to both a conditional and an unconditional Payment Obligation.

Such undertaking is also subject to the terms and conditions of the DTT, but will additionally include additional terms and conditions related to payment.

As stated in URDTT sub-article 5 (d), when an FSP adds its Payment Undertaking to a Payment Obligation, it is bound by the same version of URDTT that is applicable to the buyer and the seller, including any modification or exclusion thereto that was agreed in the terms and conditions of the DTT.

The financial services provider should satisfy itself that it is capable of handling the format of the electronic records that has been previously agreed between the buyer and the seller.

Should this not be the case, it may be necessary for the DTT and the Payment Obligation to be amended accordingly.

Format of an electronic record

The format of an electronic record is critical to the entire process.

As stated in URDTT article 2, definition of 'Received', an electronic record enters the data processing system of an addressee in a 'format' capable of being accepted by that data processing system and being examined by that addressee for compliance with the terms and conditions of a DTT.

The buyer and the seller should agree the acceptable format for any electronic records during their initial contractual discussions.

Should this not be agreed, an electronic record may be presented in any format.

This is clearly disadvantageous as it may be the case that the data processing system of one party is unable to access the submitted format.

It is essential that any data received is readable by the relevant data processing system.

The importance of a format lies in the ability of a data processing system to process data.

If the format is not one that is recognised by the data processing system, the output is meaningless and said to be 'unreadable'.

Accordingly, when considering format, the below points must be taken into account:

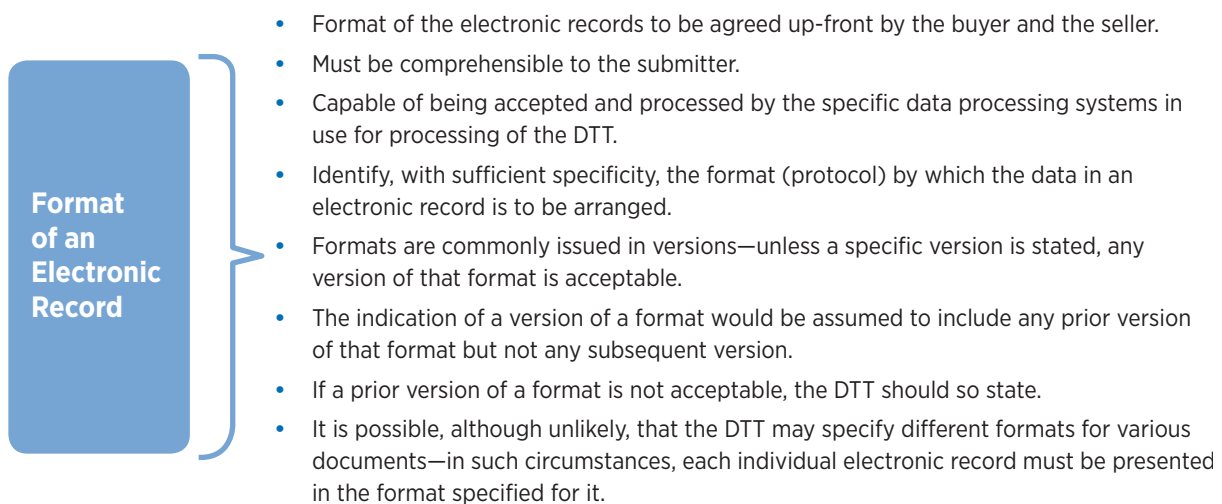


Figure 10: Format of an Electronic Record

If a DTT does not stipulate the required format, and electronic records are submitted in any format, this could potentially result in a situation whereby a Payment Obligation, and any subsequently added FSP Payment Undertaking, would not be honoured.

Modification or exclusion

URDTT sub-article 1 (c) states that the URDTT are binding on each party or person unless and to the extent expressly modified or excluded by the terms and conditions of that DTT.

Furthermore, URDTT sub-article 5 (d) states that in the event a Financial Services Provider adds its Payment Undertaking to a Payment Obligation, it is bound by the same version of the URDTT that is applicable to the Principal Parties, including any modification or exclusion thereto that was agreed in the terms and conditions of the DTT.

It is recommended that those involved in a DTT should keep any modifications or exclusions (if at all needed) to an absolute minimum, recognising that it is often not as simple as merely making a statement in the DTT that article X or sub-article Y of the rules are modified or are not to apply.

Very often there will be a need for a new term or condition to be inserted into the DTT to cover the gap that the modification or exclusion may leave.

Submitter of an electronic record

In accordance with URDTT sub-article 6 (a), a submitter has the responsibility to ensure the authenticity, accuracy and completeness of an electronic record or as a result of applicable law or regulations.

Originals or copies

As highlighted in the MLETR, providing a guarantee of uniqueness in an electronic environment functionally equivalent to an original or authentic document or instrument in the paper world has long been considered a peculiar challenge.¹⁴

While originals and copies have less relevance in a digital world, URDTT sub-article 7 (c) clarifies that any requirement for submission of one or more originals or copies of an electronic record is satisfied by the submission of one electronic record.

An electronic record that incorporates technology that allows a party to distinguish between an original and a copy and provides a means to prove possession of an 'original' can be used in a DTT.

Non-compliance of an electronic record

Should an electronic record not comply with the terms and conditions of a DTT, the addressee must inform the submitter, by means of a single notice, stating each reason for non-compliance of that electronic record. The timeline for such notice is stated in URDTT sub-article 8 (a).

Data corruption

As stated in URDTT sub-article 9 (a), an addressee may inform the submitter if it appears that a submitted electronic record has been affected by data corruption, and request that such electronic record be resubmitted. The timeline for such action is stated in URDTT sub-article 9 (b).

Resubmission

The term '*resubmit*', as used in URDTT sub-article 9 (c), means to substitute or replace an electronic record already presented.

Disposal of an electronic record

Disposal of an electronic record can be handled by any means deemed appropriate.

Decisions on the appropriate method of disposal of electronic records may be contingent upon the data itself and the circumstances.

It should be noted that '*disposal*' does not necessarily denote '*destroy*' or '*delete*'.

14 https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/mletr_ebook_e.pdf

In fact, such terms may not actually be feasible with an electronic record.

Amendments

It is only once all involved parties or persons have provided their agreement that a DTT will be amended.

Transfer

In accordance with URDTT sub-article 15 (b) (ii), an FSP Payment Undertaking must state whether any transfer is subject to the prior agreement of the Financial Services Provider.

Furthermore, as stated in URDTT sub-article 15 (c), the Financial Services Provider can also preclude any transfer of the rights and benefits of any FSP Payment Undertaking that has been added in respect of a Payment Obligation.

As such, the onus lies with the Financial Services Provider to indicate whether or not transfer can occur—it is recommended that the Financial Services Provider retain the right to veto any transfer.

Partial submission of electronic records

Whether or not this is permissible, will depend on the terms and conditions of the DTT.

Risk participation and distribution

As with the ICC eRules (eUCP Version 2.0 & eURC Version 1.0), and while outside the scope of the URDTT, there is nothing to prevent such risk mitigation methods.

Authentication of an electronic record

Electronic records need to be capable of being authenticated.

The rules do not mandate that they must be authenticated.

As with the ICC eRules, whether an electronic record is actually authenticated is the responsibility of the submitter.

As long as the data is 'authenticatable', it is an electronic record for purposes of the URDTT.

Discounting of a PO or an FSP Payment Undertaking at a future date

At this stage, this is a matter of practice and not to be mandated by the rules.

As practice evolves, this may change.

Discounting of an FSP Payment Undertaking may be one of the competitive services provided by a Financial Services Provider.

Bills of exchange as part of a DTT

Although not currently covered by the rules, this will be decided by market practice.

Payment of fees

These will be contractually agreed and cannot be mandated by the rules.

Dispute settlement

The rules neither impose nor mandate any dispute settlement conditions with regard to a Payment Obligation or a DTT.

The appropriate form of dispute resolution may depend on the circumstances of the dispute and is unlikely to be known at the outset.

The buyer and seller can, if they wish, designate a forum for dispute resolution in the terms and conditions of a DTT or a financial services provider Payment Undertaking.

The ICC rules for dispute resolution (DOCDEX) will be applicable for URDTT disputes.

Standards for ‘examination’ of electronic records

At this stage, ‘*checking*’ or examination of electronic records is an evolving practice, to a certain extent specific to various technologies and, as such, would not be appropriate for the rules to mandate practice.

This will be considered for any future guidelines.

It is essential that the URDTT remain technology neutral and do not make reference to any ‘platform’ checking rules.

Sanction clauses

As with all other ICC rules, this is a matter of practice and cannot be mandated by the URDTT.

A Financial Services Provider should only look to issue its Payment Undertaking when it has satisfied itself of all matters relating to the underlying transaction, including the transaction as a whole and the parties involved, i.e. for sanction or other regulatory requirements.

Security protocols

There are security implications when it comes to digitalised solutions, and it is feasible that the parties involved will have differing protocols.

However, this is a matter of practice, and cannot be resolved by the rules.

Retention period of an electronic record

This is a matter of practice and/or local law, not to be mandated by the rules.

Impact on existing ‘platform’ rulebooks

The URDTT will not prohibit nor constrain the continued use of existing rulebooks.

The URDTT is designed to provide an overarching framework under which other rulebooks can co-exist.

‘Silent confirmations’

URDTT sub-article 13 (a) permits a Financial Services Provider to add its Payment Undertaking to a Payment Obligation if authorised to do so by the buyer or the seller.

Therefore, the principle of silent ‘confirmation’ does exist in that the request could come from the seller.

Invalid or fraudulent DTT

If a DTT is invalid, there will be no Payment Obligation.

Matters of fraud are outside the scope of the rules.

URDTT Articles

The URDTT consist of 17 articles. There is also a section titled 'Preliminary Considerations'.

As mentioned in the introduction to the rules (ICC Publication No. KS102E), in order to appreciate the true value of the URDTT it is essential to think beyond traditional instruments; think beyond traditional rule-making; think beyond existing ways of doing business.

The URDTT are intended to govern across a digital landscape, taking into account recent developments, not only in distributed ledger technology, but also the use of artificial intelligence, natural language processing, machine learning, data analytics, smart contracts, smart objects and the Internet of Things, all of which will have a material impact on the ways in which we do business in future.

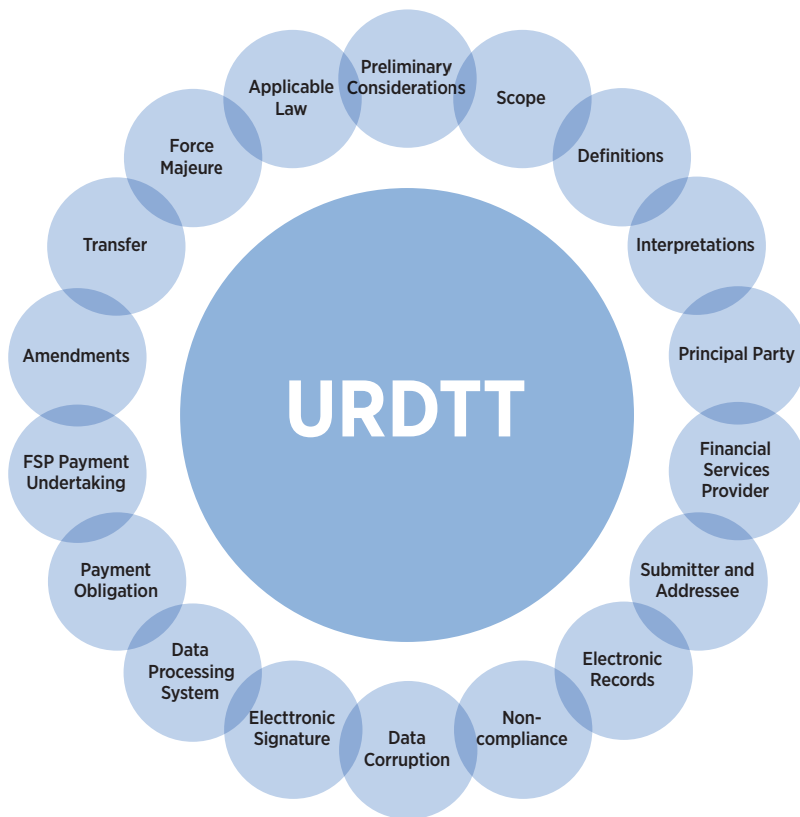


Figure 11: URDTT articles

Preliminary Considerations

The precedent for including 'Preliminary Considerations' was established in ISBP, eUCP Version 2.0, eURC Version 1.0, and with the preamble to DOCDEX

The preliminary considerations are listed on a separate page to the rules in order to provide a distinction between the two

Rationale

For reasons of transparency and clarity, it was considered to be entirely appropriate to provide guidance within the rules in the form of '*Preliminary Considerations*'.

An alternative would have been to include the text within a foreword or an introduction.

However, while it is recognised that all participants to a transaction will always take note of the rules themselves, this cannot be considered to be the same for forewords or introductions, which do not always receive the same level of attention as rules.

Accordingly, these provisions are included as *'Preliminary Considerations'*.

Relationship with eUCP/eURC

There is nothing to prevent the rules being used in conjunction with other ICC rules, but it is considered that this would be unnecessary.

For instance, the eUCP and the eURC already cater for the presentation of 'electronic' documents under documentary credits and collections. The scope of the rules is different.

The eUCP is a supplement to UCP (and the eURC a supplement to URC) designed to accommodate the presentation of electronic documents (e.g. scanned images) under documentary credits and collection instructions.

Both the eUCP and the eURC will continue to exist in their own right alongside URDTT.

In the unlikely circumstance that the eUCP or eURC are used in conjunction with the URDTT, it would need to be agreed by the buyer and seller as to which set of rules prevail in the occurrence of conflict.

In any event, the URDTT do not supplement existing rules that allow for paper.

Relationship with URBPO

The scope of the URBPO is bank-centric and limited to bank-to-bank undertakings in support of collaboration between participating financial institutions, leaving banks to compete in terms of their corporate service agreements. The URDTT extend into the corporate space.

Fully digital

The rules apply solely to a fully digital environment.

The phrase 'digital environment' is a generic term, which is evolving and fast-moving: as such, any attempted definition would require constant update.

The phrase reflects an ecosystem in which digital tools and devices communicate and collaborate.

It is feasible that one aspect of a digital transaction may inadvertently be documented on paper rather than digitally. However, this is a 'practice' issue which cannot be mandated by rules that solely cater for a fully digital environment.

It is expected that, in the event part of a transaction 'converts' to paper, then the involved parties (or persons) would reach a separate agreement on how to proceed, particularly if such action were inadvertent.

Neutral

As with all ICC rules, the URDTT are technology neutral. The choice of technology platform and messaging standards is to be agreed separately by the buyer and seller. It is recommended that both these parties transact on the same platform. However, if not, it

should be agreed by both the buyer and the seller, and will depend on the terms and conditions of the DTT. Practical issues such as interoperability would require attention. It is strongly recommended that the format for electronic records is stated within the terms and conditions of the DTT, and agreed with any prospective financial services provider.

Multi-entity

In contrast to the URBPO, the URDTT are not bank-centric and, therefore, extend into the corporate space, while also catering for non-bank providers of financial services. This ensures that the process is covered from end-to-end and involves all parties (or persons) involved in modern day trade transactions. The natural consequence of such a broadening of scope is that buyers and sellers will not only benefit from more certainty but will also be supported in any interaction with non-bank providers of financial services such as FinTech companies.

UNCITRAL Model Laws

The definitions used in the URDTT are modelled on United Nations Commission on International Trade Law (UNCITRAL¹⁵) Model Laws including those on Electronic Transferable Records (MLETR),¹⁶ Electronic Commerce,¹⁷ and Electronic Signatures.¹⁸

Further reference to UNCITRAL Model Laws is added where appropriate in the below commentary on specific articles.

Work is continuously ongoing to support the widespread adoption of the UNCITRAL Model Laws, principally under the auspices of the ICC's Digital Standards Initiative (DSI),¹⁹ and as part of the ICC Digital Roadmap.²⁰

HOW DO WE GET TO A DIGITAL FUTURE?



Figure 12: Digital Trade Roadmap Version 2.0

15 <https://uncitral.un.org>

16 https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_transferable_records

17 https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce

18 https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_signatures

19 <https://iccwbo.org/media-wall/news-speeches/digital-trade-standards-initiative-launches-under-the-umbrella-of-icc/>

20 <https://iccwbo.uk/products/digital-trade-roadmap>

Article 1: Scope of the Uniform Rules for Digital Trade Transactions (URDTT) Version 1.0

The shorthand acronym, in common usage, is “URDTT”

Scope

The URDTT are in place in order to provide a structural framework for all parties (or persons) that participate in a DTT.

Participates

The word '*participates*' does not infer '*direct*' involvement.

In common usage, it also encompasses '*contributions*' which adequately covers '*addition*' of a service.

As such, the necessary independence is in place.

Evidencing underlying sale and purchase of goods or services

An agreement exists between the buyer and seller to use a DTT whereby electronic records are used to evidence the underlying sale and purchase of the goods, and the incurring of a Payment Obligation.

The DTT is a process by which the terms of the underlying commercial contract are recorded and progressed.

The underlying commercial contract between the buyer and seller is satisfied by contractual performance.

Application

URDTT sub-article 1 (c) stipulates that when the terms and conditions of a DTT specify that it is subject to these rules, the rules are binding on each party or person.

Modifications or exclusions

URDTT sub-article 1 (c) allows for modifications and exclusions provided they are expressly modified or excluded by the terms and conditions of the DTT.

A financial services provider is bound by the same version of the URDTT that is applicable to the buyer and seller, including any modifications or exclusions thereto that were agreed in the terms and conditions of the DTT.

No provision in a DTT should be deemed to modify or exclude an article in the URDTT unless the DTT expressly so indicates.

Version number

URDTT sub-article 1 (d) emphasises that the URDTT are issued in versions, with the current version being Version 1.0.

As a matter of good practice, it is always recommended that a DTT indicate the exact applicable version, rather than leave it open to possible misinterpretation.

Should a version number not be stated, the DTT would be subject to the latest version in effect on the date such DTT is first agreed by the principal parties (buyer and seller).

Version numbers facilitate regular updates and reduce the time required to produce an update/revision.

Terms and conditions

Used frequently throughout the URDTT and the phrase has the same meaning as in all other ICC rules where it is mentioned.

It is not considered necessary to define the phrase as this is defined by practice rather than rules.

Article 2: Definitions

Covers the key terms used in the URDTT

Many of these will be familiar from the ICC eRules (eUCP Version 2.0 and eURC Version 1.0)

Addressee

Under the URDTT, a party or person receiving or being granted access to an electronic record by a submitter, is denoted as an addressee.

The responsibility of an addressee is covered in sub-articles 6 (b) and (c).

Beneficiary

In most transactions this will be the seller.

However, it could also denote any other party or person that, in its role as a transferee, has obtained, either entirely or partially, the rights and benefits of a Payment Obligation.

Key references to a beneficiary can be found in sub-articles 5 (a), 8 (b) (ii) & (iii), 12 (c) (ii), 12 (e), 14 (a), 15 (a), 17 (c), and articles 13 & 16.

Business Day

Denotes a day on which a party or person is regularly open at the place at which an act subject to the URDTT is to be performed by such party or person.

Within the URDTT, it is used in respect of non-compliance of an electronic record and data corruption, sub-articles 8 (a) & (c), and 9 (b).

The term '*is to be performed*' is consistent with other ICC rules, as is the word '*regularly*'.

While there is no need for a definition, reference to a calendar day can be found in sub-article 16 (b), Force Majeure.

Due to a financial services provider not being restricted to a bank, the concept of banking day was not included.

Buyer

The party which purchases goods or services.

Data Corruption

Refers to the determination by the addressee that, owing to distortion or loss of data, a submitted electronic record has been recognised, entirely or partially, as unreadable.

Any corruption can only be identified by a receiver of a message, i.e. an addressee.

Additionally, the URDTT cannot mandate the practice to be followed when data corruption occurs.

Some elements of data corruption may not be sufficient to warrant any non-action with that electronic record.

One of the key premises which had been insisted upon by National Committees is that ICC rules should be consistent.

Accordingly, the URDTT definition of 'data corruption' is that used in both the eUCP and the eURC.

The terms '*distortion*' or '*loss of data*' adequately cover all of the eventualities envisaged by this provision including mutilation.

Falsification is dealt with in sub-article 6 (a) under the responsibilities of the submitter, i.e. '*ensure the authenticity, accuracy and completeness*'.

Data corruption is mentioned in sub-article 7 (e), and covered in depth in article 9.

Data Processing System

The term '*data processing system*' denotes a computerised or an electronic or any other automated means used to process and manipulate data, initiate an action or respond to data messages or performances in whole or in part.

The URDTT do not provide guidelines on required data processing systems and focus principally on the submission of electronic records.

As with all ICC rules, the URDTT cannot mandate which platforms/systems are acceptable; the rules must remain neutral in this respect.

However, it is to be expected that any party or person involved in a URDTT transaction should maintain a data processing system that can cater for the sending, receipt, authentication, and identification of electronic records.

Such a system need not be state of the art, but it should be capable of performing those minimal functions of authentication considered commercially acceptable.

Given the rapid pace of technological development, maintaining such standard will require regular review, analysis, and investment as techniques evolve.

In any event, it is assumed that this is a natural process for any party or person involved in international trade.

The UNCITRAL definition of '*automated data processing*'²¹ has been adapted for the URDTT (and the ICC eRules).

In addition, article 2 of the UNCITRAL Model Law on Electronic Commerce²² defines '*information system*' as a system for generating, sending, receiving, storing or otherwise processing data messages.

The definition of '*information system*' in the UNCITRAL Model Law is intended to cover the entire range of technical means used for transmitting, receiving and storing information.

For example, depending on the factual situation, the notion of '*information system*' could be indicating a communications network and, in other instances, could include an electronic mailbox or even a telecopier.

Reference should also be made to article 11. Mention is additionally made in sub-articles 6 (c) and 16 (a).

Electronic Record

In electronic commerce, data is grouped together into a unit.

Although these units are often provided with designations such as '*messages*', '*files*' and '*documents*', the term '*electronic record*' has emerged as a common label to identify a grouping of data in one message, file, or document and to distinguish it from a paper document.

A digital record is one that exists in digitised form only, whereas an electronic record may also encompass a copy of an original document that is stored in electronic form, e.g. a scanned copy. The URDTT definition of '*electronic record*' would include a digitised record ('*data created...by electronic means*') but is broader than that.

Although there is no definition of '*electronic*' in the URDTT, such term would, by its nature, exclude paper documents.

21 https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-04970_ebook.pdf

22 https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-04970_ebook.pdf

It is essential to also note that by using the generic term '*electronic*', the rules avoid linkage with any specific technology or platform, thereby ensuring that the rules remain technology agnostic. The term '*electronic*' has generally been distinguished from imaging, which involves a different process. However, in modern times, the distinctions have become blurred.

It was once thought that telefaxes could not be electronic records both for technological reasons and because there was an original paper document that generated the telefax. With technological advances, it is possible to generate a telefax on a computer and send it to another computer as an image. As a result, it is impossible to categorically determine whether or not a telefax is an electronic record.

However, if the buyer and seller specify the format of required or permitted electronic records, the problem will be avoided.

The definition of electronic record states that an electronic record must be capable of being authenticated. Authentication in the paper world is the process by which the validity of the representations and the paper documents containing them are ascertained. There are, necessarily, various levels of authentication.

In the digital world, there is a greater focus on the authentication of data. Although used within the URDTT, as with the ICC eRules, it is deliberate that '*authentication*' is not defined.

The basis for this approach is the conviction that any purported definition would either unnecessarily duplicate the definition of 'electronic record' or, even worse, provide a specific link to existing technology.

Authentication is that process of screening incoming data as to identity, source, and error that is preliminary to it being deemed to have been presented. Current and evolving technology allows for numerous commercially reasonable techniques in order to authenticate an electronic record while applying the criteria in the URDTT definition of an electronic record.

The buyer and seller must decide the level and amount of security to be used in authenticating a message.

Various national laws may also impose specific requirements for an electronic record to be authenticated.

The URDTT require that, in order to qualify as an electronic record for purposes of the rules, data must be capable of being examined.

This requirement is intrinsically linked with the requirement in the definition of 'received' that when an electronic record enters the data processing system of an addressee, it must be in a format capable of being accepted by that data processing system and being examined by that addressee for compliance with the terms and conditions of a DTT.

If it does so, then data sent in that particular format is automatically assumed to be capable of being examined.

Accordingly, the requirement that data be capable of being examined is only relevant when the DTT does not actually specify a format.

In such circumstance, the submitter may send the data in any format, but must still ensure that it be capable of being examined. The submitter would not be able to claim that the presentation was effective if what was sent could not be read.

Compliance will be established according to the terms and conditions of the DTT. It is not for a set of rules to define what will be, in essence, a practice.

Sub-article 1 (b) highlights that a DTT relates to the underlying sale and purchase of goods or services between a seller and a buyer.

Accordingly, any data in the form of an electronic record must comply with the terms and conditions of the associated DTT.

Electronic Signature

The URDTT defines '*electronic signature*' as data attached to an electronic record with the intent of identifying the signer and authenticating the record.

As provided in the rules, signatures on required documents perform two separate functions in a DTT; indicating the identity of the person signing and authenticating the electronic record itself and the information contained in it.

An electronic signature in an electronic record can take place by indication of the name of the signer, a code, key, or acceptable digital signatures, and public key cryptography given in a manner that appears to be intended to authenticate.

While the method of authenticating the electronic record differs when it is electronic, '*signing*' an electronic message serves the same functions as does signing a paper document.

Current and evolving technology allows for numerous commercially reasonable techniques for digital signatures.

The URDTT does not contain any substantive requirement that an electronic record contain an electronic signature.

The only reference to '*electronic signature*' is contained in article 10 (Electronic Signature), wherein it states that if an electronic signature is used, it must be in compliance with any conditions specific to that electronic signature in the DTT.

The rules require that the data consisting of the electronic signature be attached to the electronic record or closely associated with it.

In most cases the electronic signature is enclosed in the envelope of the message or embedded within the electronic record itself.

It must be associated with the message in such a manner as to indicate the identity of the signer.

The reference in the URDTT to the association or connection of the data with the electronic record in order to identify the signer and authenticate the record and its content goes only to the appearance of connectedness that can be implied from examining the electronic record on its face and not to the actual intention of the signer.

Reference should also be made to article 10.

Financial Services Provider (FSP)

Denotes a financial institution or person, other than the buyer or seller, participating in a DTT.

This ensures that the rules are not bank-centric, and broadens the role of an FSP, as stated in sub-article 5 (a), to non-bank providers of financial services, e.g. within the FinTech industry.

Article 5 specifically addresses the role of an FSP.

FSP Payment Undertaking

Constitutes the provision by an FSP of an irrevocable undertaking to effect payment, to the stated beneficiary within a Payment Obligation, at sight or on a fixed or determinable future date.

Any required determination will be predicated upon the terms and conditions of the FSP Payment Undertaking.

Article 13 covers an FSP Payment Undertaking in more depth.

Earlier drafts of the URDTT utilised the word 'confirmation'. However, it was concluded that this word had too many inferences, not only to documentary credits, but also to the paper world. As such, the new term '*FSP Payment Undertaking*' was introduced.

Obligor

Signifies one of two parties, either a buyer that has incurred a Payment Obligation, or any FSP that has subsequently added its own Payment Undertaking to the Payment Obligation of a buyer.

Reference to an obligor can be found in sub-article 8 (b).

Party

Denotes a buyer, a seller, or a financial services provider.

Payment Obligation

The incurring by a buyer of an irrevocable obligation establishing a definite undertaking to a beneficiary to effect payment at sight, or on a fixed or determinable future date.

Any required determination will be based upon the terms and conditions of the Payment Obligation.

Article 12 covers a Payment Obligation in more depth.

Person

As observed by the UNCITRAL Model Law on Electronic Commerce,²³ in most legal systems, the notion of 'person' is used to designate the subjects of rights and obligations and should be interpreted as covering both natural persons and corporate bodies or other legal entities.

Consistent with the approach taken in the UNCITRAL Model Law on Electronic Commerce, any reference in the URDTT to a '*person*' should be understood as covering all types of persons or entities, whether physical, corporate or other legal persons or entities.

Principal Party

Refers to a buyer or a seller.

Received

Defines '*received*' when used with respect to an electronic record.

Submission of an electronic record will commonly be made electronically to a data processing system.

Such submission must be in a format capable of being accepted by that data processing system and being examined by the addressee for compliance with the terms and conditions of a DTT.

In view of the fact that there is no uniform or standard system by which data is organised, nor does there exist a common protocol by which data can be read or

²³ https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-04970_ebook.pdf

identified by data processing systems, the format of an electronic record is absolutely critical.

An electronic record is only readable if the data processing system is able to recognise the manner in which the data is organised, or its format.

Not every data processing system can recognise every format into which data can be organised.

Moreover, with the fast pace of technological development, many systems of organisation are regularly issued in successive versions.

It is typical that the later versions are able to read earlier ones but that earlier ones are not able to read later ones.

The term '*format*' is used in several senses.

It can mean the protocol by which data is organised, the version of that format, or the shorthand name by which that protocol is recognised and described.

There is no precise distinction between these approaches, and the manner in which it is intended they be used can normally be identified from the context in which they are used.

Under the URDTT, the burden is on the buyer and seller to agree, with sufficient specificity, the format in which they desire data in an electronic record to be arranged.

The importance of a format lies in the ability of a data processing system to process data. If the format is not one that is recognised by the data processing system, the output is meaningless and said to be 'unreadable'.

This term implies that the data processing system cannot properly format the data in a manner that would provide meaning to a reader.

Reference to 'received' can be found in sub-articles 6 (b), 8 (a), 8 (c), and 9 (b).

Seller

The party which sells goods or services.

Submitter

Under the URDTT, a party or person sending, or making available, an electronic record to an addressee, is denoted as a submitter.

The responsibility of a submitter is covered in sub-articles 6 (a) and (c).

Transfer

Denotes the entire or partial transfer by the beneficiary of the rights and benefits of a Payment Obligation and, where added, a Financial Services Provider Payment Undertaking, to one or more transferees.

Article 15 covers transfer in more detail, and it is also mentioned in sub-articles 7 (f), 12 (d), and 13 (f).

In accordance with sub-article 15 (b) (ii), the Financial Services Provider Payment Undertaking must state whether any transfer is subject to the prior agreement of the Financial Services Provider.

Furthermore, as stated in sub-article 15 (c), the Financial Services Provider can also preclude any transfer of the rights and benefits of any Financial Services Provider Payment Undertaking that has been added in respect of a Payment Obligation.

As such, the onus lies with the Financial Services Provider to indicate whether or not transfer can occur—it is recommended that the Financial Services Provider retain the right to veto.

UTC

UTC (*Universal Time Coordinated*) was originally referred to in the Uniform Rules for Bank Payment Obligations (*URBPO*), in order to define the latest time that electronic records could be presented to a bank.

It denotes the international time scale defined by the International Telecommunications Union used by electronic computing and data management equipment, and the technical equivalent of Greenwich Mean Time (GMT).

While UTC was also considered for the eUCP and the eURC, there was no definitive majority backing and, accordingly, it was recommended that the UTC concept would not, at that stage, be included within the eUCP rules, but definitely be contemplated for future versions.

However, support was provided for inclusion within the URDTT as such time scale is seen as totally appropriate for these rules.

As stated in the Preliminary Considerations, the rules are intended for a fully digital environment.

As such, it is important that any timescale adheres to a standard which will be consistent globally.

UTC is the recognised network time protocol designed to synchronise, with the highest degree of accuracy possible, the clocks and time of computers all over the world. It is the natural choice of time scale for URDTT.

Usage of UTC actually makes it easier for parties to control the processing of electronic records, rather than having to rely on differing local times.

References to UTC can be found in articles 8 & 9.

Article 3: Interpretations

Provides clarification on wording and context

Singular and plural

Provides interpretation that words in the singular include the plural and, in the plural, include the singular.

This approach was first instigated with UCP 600 in order to avoid practitioners always having to interpret context in order to understand precise relevance.

The wording in sub-article 3 (a) provides for simplification in interpretation.

“A” or “B”

Confusion can often arise as to the exact meaning when linking two words with “or” / “and”.

As such, it was felt appropriate that guidance be provided. Accordingly, unless the context otherwise requires, “A or B” means “A or B or both”, and “A and B” means “both A and B”.

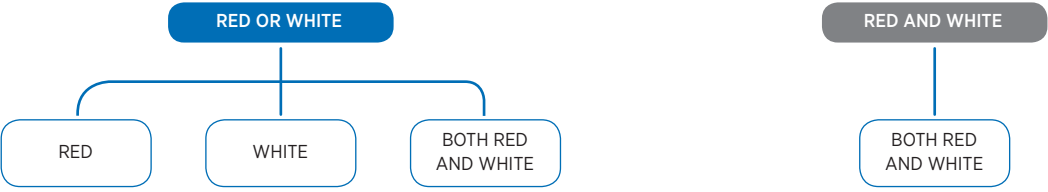


Figure 13: ‘and/or’

Include

For clarification, it is highlighted that whenever the words “include”, “includes” and “including” are used, this is purely for the purpose of illustration or emphasis.

Such words should not be construed as, nor should take effect as, limiting the generality of any subsequent words.

Article 4: Principal Party

Addresses the roles of a Seller and a Buyer

Provides clarification that there exist two principal parties in a DTT, the buyer and the seller.

The prime roles of both parties are stated within this article; however the sub-articles are not to be considered as all-inclusive.



Figure 14: Principal Parties

Seller

Ensures, in accordance with the terms and conditions of a DTT, the delivery of goods or the supply of services.

Complementary is the provision of the required information in order to enable the delivery of such goods or supply of such services.

In addition, there is a requirement to provide any additional information as may be necessary.

This may include provision of, for example, any required electronic records of certificates of inspection and insurance.

Buyer

Responsibility to take delivery of goods or receive services that comply with the terms and conditions of the DTT and, provided such compliance has been accomplished by the seller, incurring an unconditional Payment Obligation and effecting payment in accordance with that Payment Obligation.

Article 5: Financial Services Provider

Outlines the role of a Financial Services Provider (FSP) and introduces the concept of a Financial Services Provider Payment Undertaking (FSPPU)

It should be borne in mind that, as stated in article 2, an FSP denotes a financial institution or person, other than the buyer or seller, participating in a DTT. The prime role of an FSP is incorporated within this article; however sub-article 5 (a) is not to be considered as all-inclusive.

Role

Sub-article 5 (a) outlines the three prime roles:

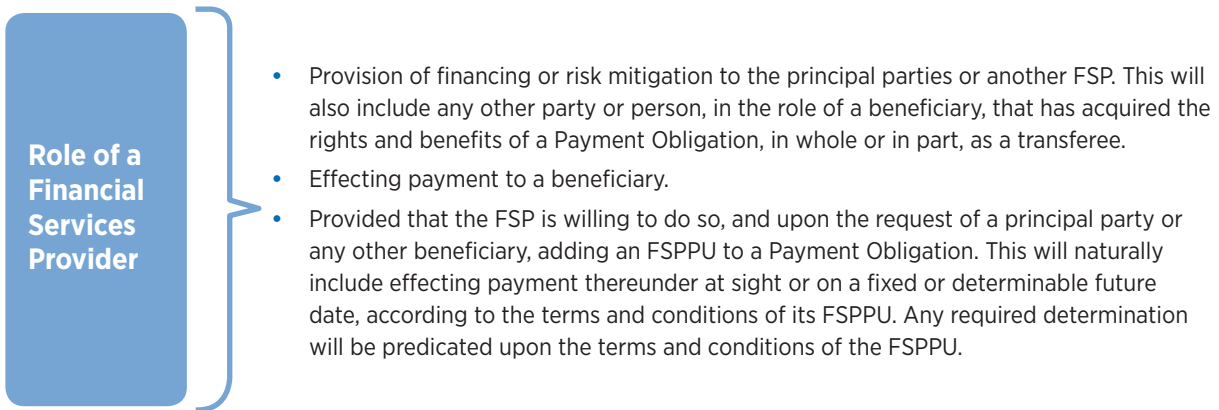


Figure 15: Role of a Financial Services Provider

Risk mitigation

The scope of risk mitigation is not an issue that can be limited or mandated by a set of rules; such scope is fluid and evolving. As such, the scope will be determined by any FSP that wishes to provide services to a buyer or seller.

Autonomy

In line with the import of other ICC rules, sub-article 5 (b) elucidates that an FSP does not deal with the goods or services to which an electronic record submitted under a DTT may refer.

Liability and responsibility

Sub-article 5 (c) (i) incorporates text often reflected in ICC rules.

However, this sub-article supports the formulation of the independence principle by disclaiming any liability or responsibility for any submitted electronic records by other persons or persons, their legality or legal effect, the representations contained in them, or the persons who made them.

Nevertheless, in accordance with sub-article 5 (c) (ii), should an FSP acts as the submitter of an electronic record for which it has previously been the addressee, it does assume liability and responsibility for that particular electronic record and any additional information that it then attaches to that electronic record.

URDTT Version applicability

In the event that an FSP adds an FSPPU to a Payment Obligation, it is automatically bound by the same version of the URDTT that was applicable to the buyer and seller, including any modification or exclusion thereto that was agreed in the terms and conditions of the DTT.

Falsification of an electronic record

During the drafting process, an issue was raised in respect of inserting a clarification that electronic records which are found to be falsified or to include false information may be rejected and payment refused.

This is a matter that is dealt with in sub-article 6 (a) under the responsibilities of the submitter, i.e. 'ensure the accuracy and completeness'.

Article 6: Submitter and Addressee

Liability and responsibility of both parties

Responsibility of submitter

It is within the responsibility of a submitter to ensure not only the authenticity of an electronic record, but also the accuracy and completeness of such record as required by the terms and conditions of the electronic record.

This responsibility will also apply as a result of any applicable law or regulation.

Responsibility of addressee

Conversely, an addressee has no responsibility for the accuracy and completeness of any received electronic record from a submitter, unless the addressee itself subsequently acts as a submitter for that particular electronic record.

As stated in the definition of an electronic record in article 2, an electronic record must be complete and unaltered.

Only a submitter can be responsible for this as it is outside of the control of the addressee.

An addressee can become responsible only when acting as a subsequent submitter for an electronic record.

Otherwise an addressee cannot possibly be responsible for data accuracy.

In the event that an addressee accesses the information within an electronic record and amends or revises such information, this is outside the scope of the rules: however, such a situation is considered to be unlikely.

No liability or responsibility

Neither a submitter nor an addressee will bear any responsibility of liability for consequences resulting from a data processing system being unavailable, unless such system is their own.

Authority to submit

Determination of whether a submitter has the proper authority to submit an electronic record is not directed by the rules, but by local practice.

Agreement on specific addressees

Whether or not specific addressees must be agreed upon in advance between the buyer and the seller is a matter to be decided outside the scope of URDTT.

Such issue should form part of the content of the DTT.

Authentication

Electronic records need to be capable of being authenticated.

The rules do not mandate that they must be authenticated.

As with the ICC eRules, whether an electronic record is actually authenticated is the responsibility of the submitter.

As long as the data is authenticatable, it is an electronic record for purposes of the URDTT.

Accuracy

The word 'accuracy' has been included in sub-articles 6 (a) & (b) to be in line with the UNCITRAL Model Law on Electronic Signatures²⁴ which refers to exercising reasonable care to ensure 'accuracy' and completeness of all material representations.

Furthermore, the UNCITRAL Model Law on Electronic Transferable Records (MLETR)²⁵ takes into account the fact that the life cycle of electronic transferable records implies a number of events that need to be 'accurately' reflected in those records.

Article 7: Electronic Records

Requirement for terms and conditions to determine compliance

Clarification of originals and copies

Focus

The focus of the URDTT is concentrated upon the submission of electronic records.

Terms and conditions

As stated in sub-article 7 (a), a DTT must specify the terms and conditions by which compliance of an electronic record will be determined.

Without such information, no compliance determination can take place and the entire process becomes redundant.

Compliance

Compliance is determined in accordance with the terms and conditions of the DTT.

A DTT must specify the terms and conditions by which compliance of an electronic record will be determined.

Fully digital environment

The 'Preliminary Considerations' emphasise that the URDTT operate in a fully digital environment.

This is reinforced in sub-article 7 (b) which states that all data in relation to a DTT must, when sent by a submitter to an addressee, be in the form of an electronic record.

Any paper data will be outside the scope of these rules.

Copies and originals

As stated in sub-article 7 (c), any requirement for submission of more than one original or copy of an electronic record is satisfied by the submission of one electronic record.

An electronic record that incorporates technology that allows a party to distinguish between an original and a copy and provides a means to prove possession of an 'original' can be used in a DTT.

²⁴ https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_signatures

²⁵ https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_transferable_records

Furthermore, the wording of this sub-article is consistent with that approved and used in the ICC eRules.

It is not for ICC rules to define the term 'original', as such definition may differ in practice.

Non-required documents

It is feasible that electronic records may be submitted but are not actually required by the terms and conditions of the DTT.

Reflecting ICC rules covering paper transactions, sub-article 7 (d) states that such records are to be disregarded and disposed of by an addressee in any manner deemed by it to be appropriate without any responsibility.

Such an approach avoids any unnecessary correspondence or dialogue as to why that course of action is being taken.

Furthermore, an electronic record submitted but not required by the terms and conditions of a Payment Obligation to which a Financial Services Provider Payment Undertaking has been added or where it is not required by the terms and conditions of a Financial Services Provider Payment Undertaking, may be disregarded and disposed of by a Financial Services Provider in any manner deemed appropriate without any responsibility, as stated in sub-article 13 (g).

Writing

Sub-article 7 (e) highlights that, unless applicable law requires otherwise, a requirement that information should be in writing is satisfied when an electronic record containing such information is accessible to an addressee and is not affected by any data corruption.

This reflects one of the objectives of the UNCITRAL Model Law on Electronic Commerce,²⁶ which is to enable or facilitate the use of electronic commerce and provide equal treatment to users of paper-based documentation and to users of computer-based information.

This Model Law provides a number of relevancies, and several pertinent extracts are stated below:

- **Article 17 Transport Documents**—where the law requires that any action referred to in article 16 (Actions related to contracts of carriage of goods) be carried out in writing or by using a paper document, that requirement is met if the action is carried out by using one or more data messages.
- If a right is to be granted to, or an obligation is to be acquired by, one person and no other person, and if the law requires that, in order to effect this, the right or obligation must be conveyed to that person by the transfer, or use of, a paper document, that requirement is met if the right or obligation is conveyed by using one or more data messages, provided that a reliable method is used to render such data message or messages unique.
- If a rule of law is compulsorily applicable to a contract of carriage of goods which is in, or is evidenced by, a paper document, that rule shall not be inapplicable to such a contract of carriage of goods which is evidenced by one or more data messages by reason of the fact that the contract is evidenced by such data message or messages instead of by a paper document.

Delivery, transfer or possession

As stated in sub-article 7 (f), where the applicable law requires or permits delivery, transfer or possession of an electronic record, that requirement or permission is met by the transfer of that electronic record to the exclusive control of the addressee.

26 https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce

Retention period

The retention period of an electronic record is a matter of practice and/or local law and not mandated by the rules.

Partial presentation

This depends not on the rules, but on the terms and conditions of the DTT.

Presentation period

The URDTT state, in sub-article 8 (a), that if an electronic record does not comply with the terms and conditions of a DTT or sub-article 7 (b) of the rules, the submitter must be informed by the addressee of each reason for non-compliance of that electronic record in a single notice sent no later than 23.59.59 UTC on the second business day following the date an electronic record is received.

Electronic record vs. electronic document

For the purposes of the URDTT, the terms are synonymous and have the same meaning.

Standard format for electronic records

While it is agreed that standard formats would be desirable, this is not an issue that can be mandated by ICC rules.

The rules must remain technology and platform agnostic.

As stated in the definition of '*Received*' all electronic records under a DTT must be in a form capable of being examined for compliance with the terms and conditions of the DTT.

Article 8: Non-Compliance of an Electronic Record

Process in the event of non-compliance of an Electronic Record

Notice of non-compliance

As stated in sub-article 8 (a), in the event that an electronic record does not comply with the terms and conditions of a DTT, a single notice stating all reasons for non-compliance, must be sent by the addressee to the submitter.

Such notice must be sent no later than 23.59.59 UTC on the second business day following the date the relevant electronic record is received.

This process equally applies to compliance of an electronic record with sub-article 7 (b), which states that all data relating to a DTT must be associated with, and be submitted by, a submitter to an addressee, in the form of an electronic record.

Options in the event of non-compliance

Three options are provided in order to proceed with a DTT.

- The first allows for replacement of the non-compliant electronic record with a compliant electronic record provided such replacement is within the time period specified in the DTT.
- Alternatively, the buyer and seller, and any other relevant obligor and beneficiary, can arrange and agree for the terms and conditions of the DTT to be amended in order to cater for the non-compliant electronic record, resulting in the electronic record being compliant.
- The final option is for the buyer and seller, and any other relevant obligor and beneficiary, to either accept the non-compliant electronic record or agree that the necessity for that particular electronic record be removed from the terms and conditions of the DTT.

It is expected that, in most cases, a replacement electronic record will be the most common solution.

The above strictly applies unless a separate process is indicated in the DTT.

Preclusion

In the event that the notice of non-compliance of an electronic record is not sent by the addressee to the submitter in accordance with the timeframe outlined in sub-article 8 (a), then that electronic record shall be considered as having been accepted by that addressee.

Transmission method for notice of non-compliance

It is not for the rules to mandate specific methods of transmission.

This must be agreed between the parties within the terms and conditions of the DTT.

Such method should be expeditious.

Single notice

As stated in sub-article 8 (a), the notice of non-compliance must be a single notice.

Subsequent or multiple notices are not allowed and, therefore, it is imperative that such single notice include each and every reason for non-compliance of an electronic record.

Each reason

It is not sufficient to list one reason or to provide a partial list if more than one reason for non-compliance of an electronic record is established.

The list must be complete and be specific as to the rationale each is considered to be a reason for non-compliance.

Responsibility for determination of non-compliance

It is the addressee who is responsible, i.e. the party that receives or is granted access to an electronic record by the submitter.

The terms and conditions of the DTT determine which party is responsible, not the rules.

Delay

If a delay occurs, i.e. no action until after 23.59.59 UTC on the second business day following the date the electronic record is received, then, under sub-article 8 (c), the addressee is precluded from stating non-compliance.

Timeframe for notice of non-compliance

The period of two business days was based upon the consensus of opinion from ICC National Committees.

In the initial URDTT drafts, the period was stated as one business day, however this was considered as too stringent from an operational point of view.

It is quite feasible that, as practice evolves, the time period may be considered for adjustment.

Without delay

A suggestion was made that the text 'without delay' be added to this article.

However, in view of the fact that a timeframe is already in place, i.e. no later than 23.59.59 UTC on the second business day following the date the electronic record is received, there is no need to add such text.

Terms and conditions

This phrase is used frequently throughout the URDTT and has the same inference as in all other ICC rules where it is mentioned.

It is not for the rules to define the exact meaning of terms and conditions—this is defined by practice rather than rules.

Article 9: Data Corruption

Process in the event of data corruption within an Electronic Record

Data corrupted electronic record

As stated in sub-article 9 (a), in the event that an electronic record appears to have been impacted by data corruption, then it is the responsibility of the addressee to appropriately inform the submitter.

Such communication may also include a request that the electronic record be resubmitted in a non-corrupted manner.

Time period

Information in respect of data corruption must be sent by the addressee to the submitter by 23.59.59 UTC on the second business day following the date an electronic record is received.

Non-communication

Should such communication not materialise then, in accordance with sub-article 9 (b), the relevant electronic record will be considered as being in compliance with the terms and conditions of the DTT.

Non-resubmission

Sub-article 9 (c) outlines that should the submitter not re-submit the electronic record, then the addressee may treat the relevant electronic record as not having been submitted.

Time period for resubmission

The submitter has until 23.59.59 UTC on the latest date for submission of an electronic record specified in the DDTT to resubmit.

Disposal

Should the electronic record not be resubmitted, the addressee may dispose of the data corrupted electronic record in any manner deemed by it to be appropriate and without any responsibility.

Optional

It should be noted that the provisions of this article are a matter of recommendation ('may inform/may treat'), and optional only.

The suggested approach in this article need not necessarily be utilised by an addressee, and the addressee remains free to take any other measures they may consider to be necessary in order to mitigate any perceived losses due to the corruption of data while the electronic record is within its control.

After submission

It must be clearly noted that this article only applies to the data corruption of an electronic record subsequent to presentation.

Should a problem exist with an electronic record before presentation, this can only be the responsibility of the submitter to fix.

Determination of data corruption

This article is consistent with that within the ICC eRules.

Determination of data corruption can only be based on what has been received not necessarily upon what was submitted.

If the data is corrupted, it is very unlikely that the electronic record would comply with the terms and conditions of the DTT.

Taking possession of goods

During the process, the question was raised as to whether or not the fact that an electronic record had been corrupted would prevent the buyer from taking possession of the goods.

Whether this prevents the buyer from taking possession of any goods depends on the terms and conditions agreed between the buyer and the seller.

Corruption

The rules do not define 'corruption'.

The term is intended to encompass any distortion or loss of data that renders the electronic record as it was presented unreadable in whole or part due to the data having become scrambled in an unrecoverable manner.

Transmission method for notice of data corruption

It is not for the rules to mandate specific methods of transmission.

This must be agreed between the parties within the terms and conditions of the DTT. Such method should be expeditious.

Latest date for submission

If the electronic record is received on the latest date for submission, and data corruption is identified, then the addressee and the submitter will need to agree on an extension to such date. The process cannot be mandated by the rules.

Discovery of data corruption at a later date

It is incumbent upon the addressee to provide any notice of data corruption in accordance with sub-article 9 (b).

Only practice will decide the process should any such corruption be discovered at a later date: this is not a matter for the rules.

Proof of data corruption

Data can be corrupted after having been received from the submitter.

As a result, there could be a degree of unease regarding the possibility of the loss of data by an addressee after an electronic record has been submitted.

Any problem with the record prior to receipt by the addressee is the responsibility of the submitter whose obligation is to submit the electronic record in the format required by the DTT.

How any data corruption is proven is a matter of practice and not to be mandated by the rules.

Unreadability

As with UNCITRAL Model Laws, and in the definition of 'data corruption' in the URDTT, it is the 'unreadability' of an electronic record that is the prime issue.

If the electronic record is 'readable', then there is no issue.

Data processing system incompatibility

The rules expressly do not account for 'unreadability' arising out of system incompatibilities.

It is not for the rules to determine the technical formats to be used as the rules are technology neutral.

In any event, there is nothing in this article to suggest that such an issue is tantamount to data corruption.

Article 10: Electronic Signature

To be used relative to the conditions in the Digital Trade Transaction

Compliance

The usage of any electronic signature must comply with the conditions for such electronic signature contained in the DTT.

Each relevant party or person must be in a position to fulfil such requirements.

Role of a 'signature'

A signature identifies the party or person assuming responsibility for the electronic record and indicates some form of assent to its content.

Signatures are regarded as adding assurance of authenticity to an electronic record and of the veracity of the representations contained in it.

By signing an electronic record, the party or person signing is personally engaged to some extent in a moral, if not a legal, sense, in what the electronic record represents.

Local law

In order to have validity under local law, it is often necessary for certain paper documents to be signed.

Some laws also define terms such as 'sign' and 'signature'.

This has advanced further in recent times with the formulation of electronic commerce laws which now address electronic records and their method of authentication.

As such, and in order to remain in line with existing law, most electronic commerce laws include definitions for terms such as 'sign' and 'signature'.

It is important to note that the URDTT take a technology-agnostic view with respect to the type of technology that may be used in this respect.

UNCITRAL

The UNCITRAL Model Law on Electronic Signatures²⁷ defines an 'electronic signature' as data in electronic form, affixed to or logically associated with, a data message, which may be used to identify the signatory in relation to the data message and to indicate the signatory's approval of the information contained in the data message.

It further defines 'signatory' as a person that holds signature creation data and acts either on its own behalf or on behalf of the person it represents.

The UNCITRAL Model Law on Electronic Transferable Records (MLETR)²⁸ states that where the law requires or permits a signature of a person, that requirement is met by an electronic transferable record if a reliable method is used to identify that person and to indicate that person's intention in respect of the information contained in the electronic transferable record.

27 <https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/ml-elecsig-e.pdf>

28 https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/mletr_ebook_e.pdf

UNCITRAL—Functional Equivalence

Article 7 of the UNCITRAL Model Law on Electronic Commerce²⁹ is based on the recognition of the functions of a signature in a paper-based environment.

In the preparation of the UNCITRAL Model Law on Electronic Commerce, the UNCITRAL Working Group discussed the following functions traditionally performed by handwritten signatures: to identify a person; to provide certainty as to the personal involvement of that person in the act of signing; to associate that person with the content of a document.

It was noted that, in addition, a signature could perform a variety of functions, depending on the nature of the document that was signed.

For example, a signature might attest to: the intent of a party to be bound by the content of a signed contract; the intent of a person to endorse authorship of a text (thus displaying awareness of the fact that legal consequences might possibly flow from the act of signing); the intent of a person to associate itself with the content of a document written by someone else; the fact that, and the time when, a person had been at a given place.

Signature in an electronic record

An electronic signature in an electronic record can take place by indication of the name of the signer, a code, key or acceptable digital signatures and public key cryptography given in a manner that appears to be intended to authenticate.

While the method of authenticating a document differs when it is electronic, ‘signing’ an electronic record serves the same functions as does signing a paper document.

Current and evolving technology allows for numerous commercially reasonable techniques for digital signatures.

The UNCITRAL Model Law on Electronic Commerce provides an excellent guide to this process.

Various national laws may also impose specific requirements for digital signatures.

Recognition in different jurisdictions

It is not for ICC rules to mandate conditions or requirements for electronic signatures; ICC rules must remain neutral.

Article 10 indicates that where an electronic signature is used, it is to be in compliance with any conditions specific to that electronic signature in the DTT.

Therefore, the onus on the form of electronic signature is to be agreed between the buyer and seller.

Dating of an electronic signature

An electronic signature in an electronic record can take place by indication of the name of the signer, a code, key or acceptable digital signatures and public key cryptography given in a manner that appears to be intended to authenticate.

Local law may contain requirements that certain documents be signed and dated in order to be effective.

One facet of the evolution of electronic commerce has been the extension of such laws to embrace electronic documents and to permit such documents to be authenticated in a manner that links with the nature of the document.

²⁹ https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-04970_ebook.pdf

As a result, many of electronic commerce laws contain a definition of these terms.

Caution should be exercised in references to electronic signatures in law and practice to distinguish between a relatively simple 'electronic signature' and one with added precautions.

The latter has commonly been called a '*digital signature*' for purposes of differentiation.

When local law adopts the more restrictive notion of a digital signature, it may impose a requirement on an electronic signature not definitively contained in a DTT.

Article 11: Data Processing System

Clarification on the handling of an acknowledgement of receipt

Acknowledgement of receipt

Any acknowledgement of receipt generated by a data processing system does not imply that an electronic record has been viewed, examined or determined to be compliant or non-compliant by an addressee.

Examined

In order for an addressee to examine an electronic record for compliance, it must be ensured that they have in place both the technological and operational capabilities to do so.

Compliance

Compliance is determined in accordance with the terms and conditions of the DTT.

Data processing system

The URDTT do not provide guidelines on required data processing systems and focus principally on the submission of electronic records.

As with all ICC rules, they cannot mandate which platforms/systems are acceptable—the rules must remain neutral in this respect.

Any party or person that engages in handling a DTT is responsible for maintaining a data processing system.

This responsibility is a fundamental precondition for using the URDTT.

The term refers to any automated means (be it computerised, electronic, or any other) that is utilised for the processing and manipulation of data, for initiating an action, or for responding to data messages either partially or in full.

Unavailability of data processing system

In respect of the resumption of submission of electronic records after a data processing system becomes re-available, this cannot be mandated by ICC rules, and will be a matter of market practice and dependent on the actual circumstances.

Auto-generation

While, in practice, the majority of acknowledgements of receipt may be generated automatically, it cannot be assumed that this is definitively the case on all occasions.

It is quite feasible that various acknowledgements of receipt may require some form of manual intervention.

As such, it is not for the URDTT to provide a definition of an acknowledgement of receipt generated by a data processing system.

Article 12: Payment Obligation

Outlines the required data elements

Definition

As defined in article 2, a Payment Obligation means an irrevocable obligation, incurred by a buyer, that constitutes a definite undertaking to effect payment at sight, or on a fixed or determinable future date, to the beneficiary.

In view of the fact that a Payment Obligation is a definite undertaking, as stated in sub-article 12 (a), it only comes into effect once the seller has complied with the terms and conditions of the DTT.

Conditionality and unconditionality

The possibility exists for two sets of electronic records to be specified (as set out) in the DTT.

- i) Electronic records that evidence the underlying sale and purchase of the goods or services, as well as evidence of the actual delivery/receipt of those goods or services.
- ii) Electronic records that evidence the underlying sale and purchase of the goods or services i.e., contractual terms and terms for delivery etc. Together with an additional set of electronic records that, for example, evidence the actual delivery/receipt of those goods or services.

In the case of (i), an unconditional payment obligation would be incurred by the buyer upon compliance by the seller with the terms and conditions of the DTT.

In the case of (ii), a conditional payment obligation would be incurred by the buyer upon compliance with the first set of terms and conditions of the DTT. An unconditional payment obligation would automatically be incurred by the buyer upon compliance by the seller with the second set of terms and conditions of the DTT.

Buyer's obligation

Under a conditional Payment Obligation, a buyer is obligated to pay once the seller has complied with the terms and conditions of the relevant DTT.

As stated in sub-article 12 (b), a Payment Obligation is then automatically amended to become unconditional and independent.

Data elements

In accordance with sub-article 12 (c), a Payment Obligation must include certain data elements.

Sub-article 12 (c) (i) which is the first, and most logical, requires a unique reference linking both the Payment Obligation and the DTT.

This will act as an identifier ensuring that all parties obtain clarity as to the precise transaction which is being addressed.

While it is not mandated that all parties need to link and state this reference number in any communications and actions, it is strongly recommended.

Failure to do so may result in a particular electronic record not being processed as expected.

Sub-article 12 (c) (ii) provides that the Payment Obligation must state the name and address of the buyer, the seller, and any other beneficiary, thereby ensuring there is no confusion as to which party is involved.

Obviously, a Payment Obligation must state the currency and amount of the obligation and this is reflected in sub-article 12 (c) (iii).

In the event that the amount of the Payment Obligation is subject to payment of interest, sub-article 12 (c) (iv) denotes that this must be specified together with the basis on which interest is to be calculated and apportioned.

It is important that the parties involved are aware of the date from which a Payment Obligation is incurred and this is stated in sub-article 12 (c) (v).

As stated in sub-article 1 (b), a DTT is a process which includes the incurring of a Payment Obligation. Accordingly, the Payment Obligation, as reflected in sub-article 12 (c) (vi) must state the latest date for submission of any electronic records.

As indicated in sub-articles 12 (c) (vii) (a) & (b), the Payment Obligation must state the payment terms. In line with standard practice, this will be either payment at sight, or payment at a fixed or determinable future date.

If necessary, any future date for payment must include the basis on which determination of the payment date is ascertained in accordance with the Payment Obligation and the relevant associated electronic records.

The Payment Obligation, as detailed in sub-article 12 (c) (viii), must state whether it is conditional or unconditional. If conditions are applicable, then such conditions are to be as specified in the DTT.

Finally, in accordance with sub-article 12 (c) (ix), the Payment Obligation must state the applicable law. This sub-article should be read in conjunction with article 17, Applicable Law.

Transferable

If a Payment Obligation is to be considered as transferable then, in accordance with sub-article 12 (d), it must be so stated in its terms and conditions.

Amendment or cancellation

As stated in sub-article 12 (e), a Payment Obligation may only be amended or cancelled by a buyer or seller provided the other principal party and any other beneficiary has agreed.

Should any financial services provider have added its Payment Undertaking, then they must also provide agreement.

Format

The rules do not provide a standard format for a Payment Obligation.

They merely outline the required data elements—how these are to be included, or even expanded, is for the parties involved to decide.

Payment instruction

Instructions as to the method of payment are not a mandatory data element.

As stated in article 2, a Payment Obligation means an irrevocable obligation, incurred by a buyer in favour of a beneficiary, to effect payment.

It would not be appropriate for a set of rules to state that such obligation should also include the payment instructions/method—these must be considered separately.

As a comparison, under UCP 600, a credit means any arrangement, however named or described, that is irrevocable and thereby constitutes a definite undertaking of the issuing bank to honour a complying presentation.

It does not include the payment instruction.

Address type

Sub-article 12 (c) (ii) includes reference to the address of the buyer and seller and any other beneficiary, but the address type is not defined (e.g. registered address, mailing address. etc).

During the drafting process, a question was raised as to whether there are address types which are not acceptable (potential examples: PO Box, email address, etc), and whether or not such addresses should be explicitly stated to avoid ambiguity.

This is not usual ICC rule practice, and cannot be mandated by rules.

Article 13: FSP Payment Undertaking

Implications for the addition of an FSP Payment Undertaking (FSPPU), either singular or multiple

Irrevocability

As stated in article 2, an FSPPU is an irrevocable undertaking added by a Financial Services Provider in order to provide payment either at sight or a future date. As a reminder, Financial Services Providers, also as stated in article 2, are not limited to financial institutions. In the world of documentary credits, such an undertaking is known as a 'confirmation'.

Addition of an FSPPU

Sub-article 13 (a) allows for a Financial Services Provider to add its Payment Undertaking at any time, provided it has been requested to do so by the buyer, the seller or any other beneficiary.

Whole or part commitment

Under sub-article 13 (a), the Financial Services Provider can add its Payment Undertaking for the full amount of the Payment Obligation or for a partial amount.

Payment commitment

Sub-article 13 (b) goes on to clarify that in the event an FSPPU has been added, this represents an undertaking by the Financial Services Provider to provide payment either at sight, or at a future date, to the beneficiary of the relevant Payment Obligation.

Payment at a future date

Future payment can be on a stated fixed date, or at a future determinable date. Such determination will be predicated on the terms and conditions of the FSPPU.

No obligation

The key is that a Financial Services Provider 'may' add its Payment Undertaking—it is under no obligation to do so, as highlighted in sub-article 13 (c).

Should a Financial Services Provider not be prepared to add its Payment Undertaking, it must inform the person that requested it to do so without delay.

Without delay

This is a recognised term within ICC rules, but is deliberately not defined due to the fact that, as stated in various ICC Opinions, the precise interpretation of "without delay" would depend upon the circumstances of each case.

As with other ICC rules, the incorporation of a specific timeline would require an indication of the penalty for failure to comply.

This is why the UCP, as an example, uses ‘without delay’ regarding non-advice or confirmation of a letter of credit to an issuing bank.’

Under international standard banking practice, ‘*without delay*’ equates with ‘*promptly*’.

Autonomous

In accordance with sub-article 13 (d), any FSPPU that has been added to a conditional Payment Obligation is separate from, and independent of, the DTT.

This applies whether or not there is a reference to the DTT in the FSPPU.

Even when an FSPPU has been added the buyer is still liable, unless otherwise agreed by the buyer with the seller and any other beneficiary.

Multiple FSPPU

As stated in sub-article 13 (e), it is acceptable for there to be more than one FSPPU added to a Payment Obligation.

In such circumstances, each Financial Services Provider is severally and individually liable to the extent provided in their own discrete FSPPU.

The word ‘several’ limits each liability to the individual obligation.

Communication

The process in respect of an FSPPU is outlined in sub-article 13 (f).

In the event that a Financial Services Provider agrees to a request from a buyer, seller or any other beneficiary to add its FSPPU, then the requestor, once the FSPPU has been added, must inform the remaining principal party (or other beneficiary if one exists), of the name and address of the relevant Financial Services Provider.

Furthermore, information must be provided in respect of any relevant details concerning any liability limitation of that Financial Services Provider and the actual amount of the FSPPU.

In the event that the Payment Obligation is transferable, it must be stated whether the FSPPU can also be transferred and, if so, any conditions that may have been enforced by the Financial Services Provider in respect of any such transfer.

Non-specified electronic records

In line with the concept of other ICC rules, and as stated in sub-article 13 (g), a Financial Services Provider that has added its FSPPU may disregard and dispose of any submitted electronic records that are not required by the terms and conditions of a Payment Obligation.

This also applies when the terms and conditions of an FSPPU do not require such electronic records.

Non-mandatory

It is important to note that the provisions of sub-article 13 (g) are a matter of recommendation (‘*may be disregarded and disposed of*’), and optional only.

This approach need not necessarily be utilised by a Financial Services Provider, and the financial services provider remains free to take any other measures they may consider to be necessary while the electronic record is within its control.

Disposal

Disposal of an electronic record bears no responsibility for a Financial Services Provider and can be handled by any means deemed appropriate.

Decisions on the appropriate method of disposal of electronic records may be contingent upon the data itself and the circumstances.

As used in this article, *'disposed of'* does not necessarily denote *'destroy'* or *'delete'*.

In fact, such terms may not actually be feasible with an electronic record. In formulating its policy regarding the disposition of electronic records, a Financial Services Provider should take into account matters of proof and may, instead, choose to archive the electronic records received.

Amendment or cancellation

Neither amendment nor cancellation of an FSPPU can occur unless the buyer, the seller, and any other existing beneficiary have all provided agreement.

Once all such persons have given their assent, the FSPPU is considered as amended or cancelled.

As to the method by which such agreement is provided, this is a matter of practice and not for the rules to mandate.

'Silent' FSPPU

Under UCP 600, a confirmation is an undertaking that is added to a documentary credit at the request or authorisation of an issuing bank.

A silent confirmation is an undertaking added by a bank at the specific request of the beneficiary and without any prior request or authorisation being given by the issuing bank.

The word *'silent'* is derived from the form of agreement that is signed between a bank and the beneficiary which sets out the terms and conditions of the confirmation.

In this agreement, it is usually stated that the confirmation is to be considered as a private arrangement between the bank and the beneficiary and is not to be divulged to anyone save any legal obligation to do so, thus the reference to it being *'silent'*.

As with UCP 600, this is a matter of market practice, not for the rules to determine.

URDTT sub-article 13 (a) permits a financial services provider to add its Payment Undertaking to a Payment Obligation if authorised to do so by the buyer or the seller.

Therefore, the principle of silent *'confirmation'* does exist in that the request could come from the seller. However, should be noted that if a *'silent'* FSPPU is added, an element of control will be lost.

Charges and fees for an FSPPU

At this stage, it is not seen as appropriate for the rules to mandate any charge or fee liability, which should be covered by a separate agreement between the Financial Services Provider and the requestor.

As practice evolves, this can be considered for future versions of the rules.

FSPPU added to an existing FSPPU

At this stage, it is not clear how market practice will evolve—as such, the concept of a *'double'* FSPPU is not covered by the rules.

Should such a process become commonplace, then this will be included in a later version of the rules.

In the meantime, should such circumstance arise, a bilateral agreement outside the rules would be more appropriate.

Article 14: Amendments

Handling of amendments

Agreement

As stated in sub-article 14 (a), whenever an amendment is made to a DTT, it requires the agreement of the buyer and seller, each financial services provider that has issued a Payment Undertaking, and any other beneficiary.

If agreement is not provided by any one of the involved parties, for whatever reason, then there is no amendment.

Effectiveness

Once all involved parties have provided their agreement then, in accordance with sub-article 14 (a), the DTT will be amended.

Submission

In order for a DTT, a Payment Obligation, or a Financial Services Provider Payment Undertaking to be amended, sub-article 14 (b) specifies that an electronic record be submitted to the addressee of the existing electronic record, containing the amended criteria.

The actual method and format of submission of the electronic record is outside the scope of the rules, and for the involved parties and persons to separately agree.

No modification

As indicated in sub-article 14 (c), any such electronic records can neither be amended nor deleted once submitted.

The only exceptions in this regard are electronic records submitted as referred to in sub-articles 7 (d) (an electronic record not required by the terms and conditions of a DTT) and 13 (g) (an electronic record not required by the terms and conditions of a Payment Obligation to which a Financial Services Provider has added its Payment Undertaking, or where it is not required by the terms and conditions of such Payment Undertaking).

Article 15: Transfer

Process for the transfer of a Payment Obligation and, where added, an FSP Payment Undertaking

Conditions for transfer

As stated in sub-article 15 (a), provided a relevant Payment Obligation or Financial Services Provider Payment Undertaking is specified to be transferable, then it may be transferred in accordance with either instrument by the seller or any other beneficiary.

By effecting such transfer, the seller or any other beneficiary is denoted as a transferor.

Applicable law

Any such transfer must be in accordance with applicable law.

Rights of recourse

Sub-article 15 (a) further denotes that once transfer has been realised, each transferee automatically becomes a beneficiary under the appropriate instrument (i.e. Payment Obligation or Financial Services Provider Payment Undertaking).

As a result of this, unless otherwise waived at the time of transfer, each transferee retains rights of recourse against the transferor.

The actual terms of recourse against the transferor cannot be mandated by the URDTT and are a matter of practice.

Accordingly, they should be dealt with in the underlying DTT, and remedies available under applicable law.

Disclosure

In the interests of transparency, sub-article 15 (b) (i) provides that in the event of a transfer, the transferor must, at the time the transfer is made, advise the buyer or Financial Services Provider, respectively, of the name and address of each transferee, together with details of the amount transferred to each transferee, and whether the transferee has waived its rights of recourse to the transferor or to any prior transferee.

Prior agreement

In respect of a Payment Undertaking added by a Financial Services Provider to a Payment Obligation that indicates it is transferable, and in accordance with sub-article 15 (b) (ii), the Payment Undertaking must state whether any transfer is subject to the prior agreement of the Financial Services Provider.

Rights and benefits

Under sub-article 15 (c), unless precluded by the Financial Services Provider, any transfer shall include the transfer of the rights and benefits of any Financial Services Provider Payment Undertaking that has been added in respect of that Payment Obligation.

Preclusion

As further stated in sub-article 15 (c), should such transfer have been precluded by the Financial Services Provider, then no transfer of that Payment Obligation can be made unless that Financial Services Provider Payment Undertaking has been appropriately amended or cancelled.

Multiple transferees

The rules allow for more than one transferee.

Assignment

Transfer, for the purposes of the URDTT, is equivalent to assignment.

The use of the term 'transfer' is to replace the English law word commonly used of 'assignment' and is an equivalent right to that of an assignment and covers the transfer of rights and benefits.

Can a DTT be transferred?

It is not the DTT that is transferred.

Under the URDTT, transfer refers to the transferring of the rights and benefits of a Payment Obligation and, where added, a Financial Services Provider Payment Undertaking, by a seller or any other beneficiary to one or more transferees, in accordance with that instrument and applicable law.

Independence

It is only when a Financial Services Provider Payment Undertaking is unconditional that it is separate from, and independent of, the DTT.

A Payment Obligation cannot be separate from the DTT as it is an integral part of the DTT.

This article makes it clear that a Financial Services Provider Payment Undertaking which is added to a Payment Obligation can only be transferred if the Payment Obligation is also transferred.

However, this does not prevent the Financial Services Provider Payment Undertaking, which is unconditional, from being separate and independent.

It is up to the Financial Services Provider to state whether the Payment Undertaking is also capable of being transferred.

Article 16: Force Majeure

The term 'force majeure' is French in origin, literally meaning 'greater force' and refers to unexpected events, outside the control of the parties to an agreement, which prevent performance of part or all of the required contractual obligations

Applicability

The concept of force majeure is similar to that included in many other ICC rules but, in sub-article 16 (a), is extended to cover plague, epidemic, natural disaster or extreme natural event.

Acts of God

Acts of God relate to events caused by natural forces including for instance, earthquakes, floods, tornadoes, snowstorms, hurricanes, etc.

In other words, it refers to events which are caused without any human interference and which could not be prevented.

Resumption of business

A buyer will not, upon resumption of its business, be liable under the terms and conditions of a DTT that expired during such interruption of its business.

However, in accordance with sub-article 16 (b) (i), a buyer that has incurred a Payment Obligation or any financial services provider that has provided its Payment Undertaking to a Payment Obligation will, upon resumption of its business, remain liable to fulfil any Payment Obligation or Payment Undertaking that became due during such interruption of its business within thirty (30) calendar days following such resumption.

As stated in sub-article 16 (b) (ii), a seller or any other beneficiary will, upon resumption of its business, remain liable to fulfil any obligation that became due during such interruption of its business within thirty (30) calendar days following such resumption.

A party or person will only fulfil any obligations after they are in a position to resume their business.

Non-reference to 'Pandemic'

It is considered that the existing wording, 'plague, epidemic, natural disaster or extreme natural event', sufficiently covers such an event.

Article 17: Applicable Law

As specified in the Digital Trade Transaction

Applicable law

As indicated in sub-article 17 (a), the applicable law shall be as specified in the terms and conditions of the DTT.

Supplementary to applicable law

Sub-article 17 (b) states that the rules supplement the choice of the applicable law agreed between the buyer and the seller to the extent not prohibited by, and not in conflict with, that applicable law or any applicable regulation.

Prohibition by applicable law

In the event that any party or person would be prohibited by applicable law in complying with its obligations under a DTT, a Payment Obligation, or a financial services

provider Payment Undertaking, then, under sub-article 17 (c), they are not obligated to do so, and assume no liability of responsibility for the result of such non-action.

Relevant applicable law

If no applicable law is stated, then it is a matter for the buyer and the seller to decide, not the URDTT.

However, good practice is that the applicable law should be specified in the terms and conditions of the DTT.

Should the parties require a differing law to that stated in the DTT, then this must be agreed separately.

In any event, as stated in sub-article 12 (c) (ix), the Payment Obligation must indicate the applicable law.

Conflict of law

As stated in sub-article 17 (a), the applicable law shall be as specified in the terms and conditions of the DTT.

Furthermore, the rules supplement the choice of the applicable law agreed between the buyer and the seller to the extent not prohibited by, and not in conflict with, that applicable law or any applicable regulation.

As with all ICC rules, applicable law will always prevail.

Blocking statutes

In the event of a blocking statute in one jurisdiction which conflicts with applicable law in another jurisdiction, the circumstances will be resolved by practice and not by the rules.

Law will always prevail over rules and ICC rules cannot mandate which particular jurisdiction takes precedence.

Dispute settlement

The rules neither impose nor mandate any dispute settlement conditions with regard to a Payment Obligation or a DTT.

The appropriate form of dispute resolution may depend on the circumstances of the dispute and is unlikely to be known at the outset.

The buyer and seller can, if they wish, designate a forum for dispute resolution in the terms and conditions of a DTT or a financial services provider Payment Undertaking.

The ICC rules for dispute resolution (DOCDEX) will be applicable for URDTT disputes.

URDTT & Supply Chain Finance (SCF)— an introduction

At the time of writing, no market practice has yet been established in respect of the usage of the URDTT within SCF techniques.

However, preliminary deliberations have been considered by the URDTT Drafting Group and it is seen as worthwhile to share the basic concepts in order that practitioners and the market can use these as indicators.

The URDTT are agnostic towards a financing solution (if any), focusing on the Payment Obligation that arises as between the buyer and the seller and the Payment Undertaking (if any) which may be added by a Financial Services Provider.

The buyer's Payment Obligation and seller's fulfilment of the terms & conditions can be evidenced via an electronic record, which is also at the core of SCF.

The URDTT provides guidance on how an electronic record should be managed, how to address discrepancies and, most importantly, the accountability of the parties throughout the process.

Compared to traditional trade, SCF is already highly digital, e.g. paper invoices are rarely used, providing a good alignment with the URDTT.

The URDTT supports inclusion of third-parties, for instance when electronic records may be provided by centralised invoice registries. In this case, the submitter of the electronic record is responsible for its accuracy and completeness.

The URDTT also supports corporate access to SCF 'platforms' (and networks) for the creation of a Payment Obligation which may then be augmented by a Financial Services Provider Payment Undertaking.

For guidance purposes, and purely as a framework, a number of provisional workflows can be found below.

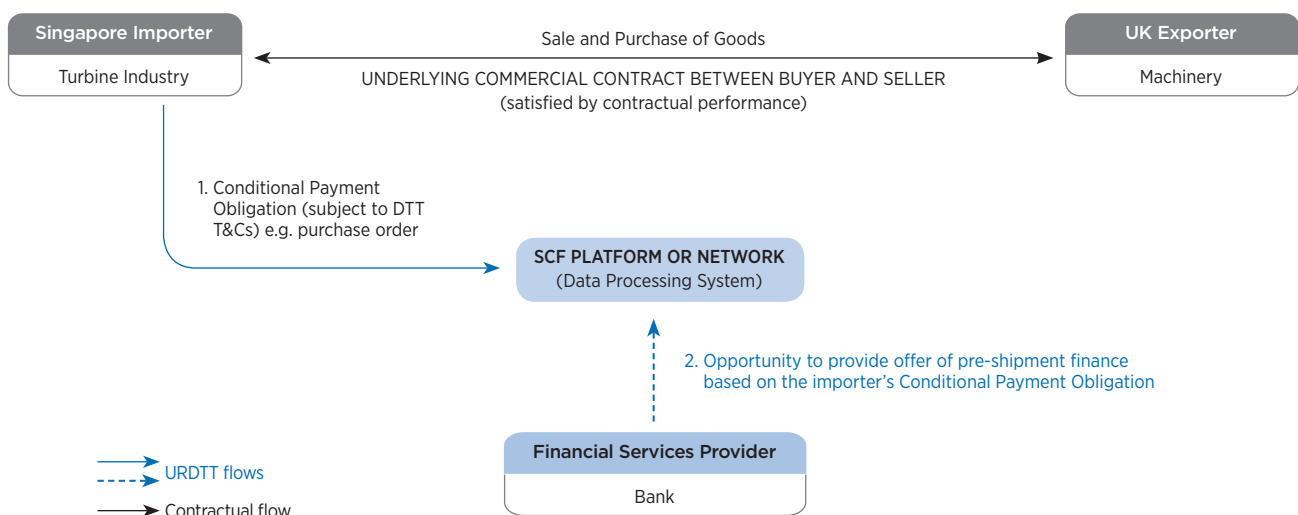


Figure 16: Pre-shipment finance based on the importer's conditional Payment Obligation

An underlying commercial contract exists between the buyer and seller whereby it has been agreed by both parties to use a DTT subject to URDTT Version 1.0.

1. As a result, the buyer incurs a conditional Payment Obligation which is subject to the terms and conditions of the DTT and the purchase order is submitted to the pre-agreed 'platform'.
2. This then provides a Financial Services Provider an opportunity to offer pre-shipment finance based on the buyer's conditional Payment Obligation.

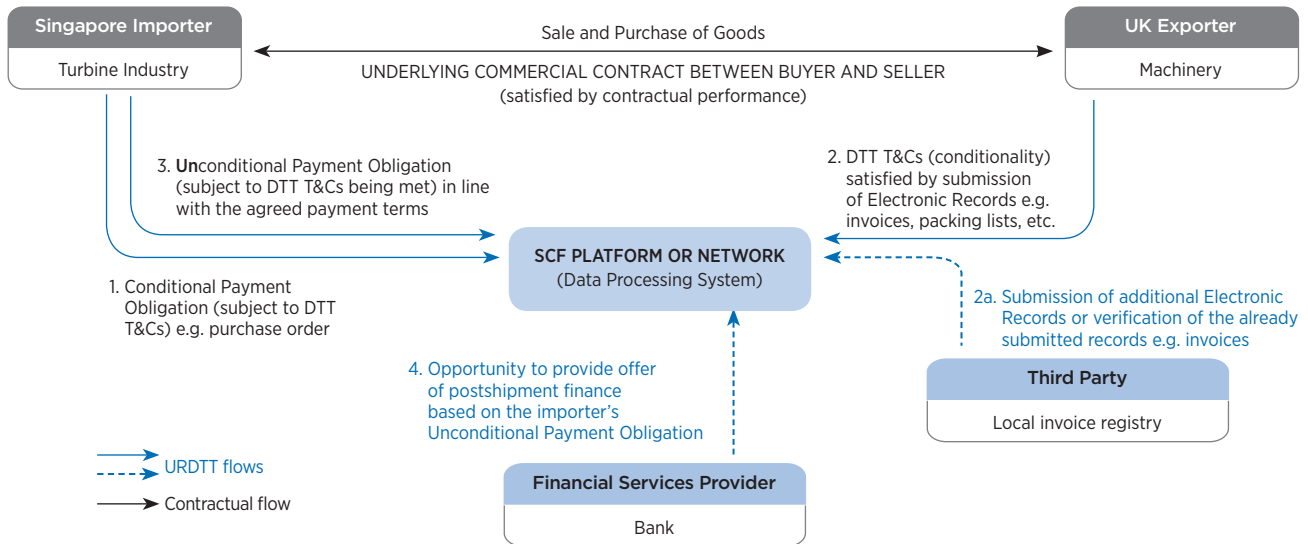


Figure 17: Post-shipment finance based on the importer's unconditional Payment Obligation

An underlying commercial contract exists between the buyer and seller whereby it has been agreed by both parties to use a DTT subject to URDTT Version 1.0.

1. As a result, the buyer incurs a conditional Payment Obligation which is subject to the terms and conditions of the DTT and the purchase order is submitted to the pre-agreed 'platform'.
2. Subsequently, the seller submits electronic records such as invoices and packing lists, which fulfil the conditionality of the DTT.
 - a. Supplementary electronic records may be submitted by a third party, if required.
3. If the submission is compliant, the Payment Obligation converts to unconditional in line with agreed payment terms.
4. At this stage, a Financial Services Provider has the opportunity to offer post-shipment financing to the seller based upon the buyer's unconditional Payment Obligation.

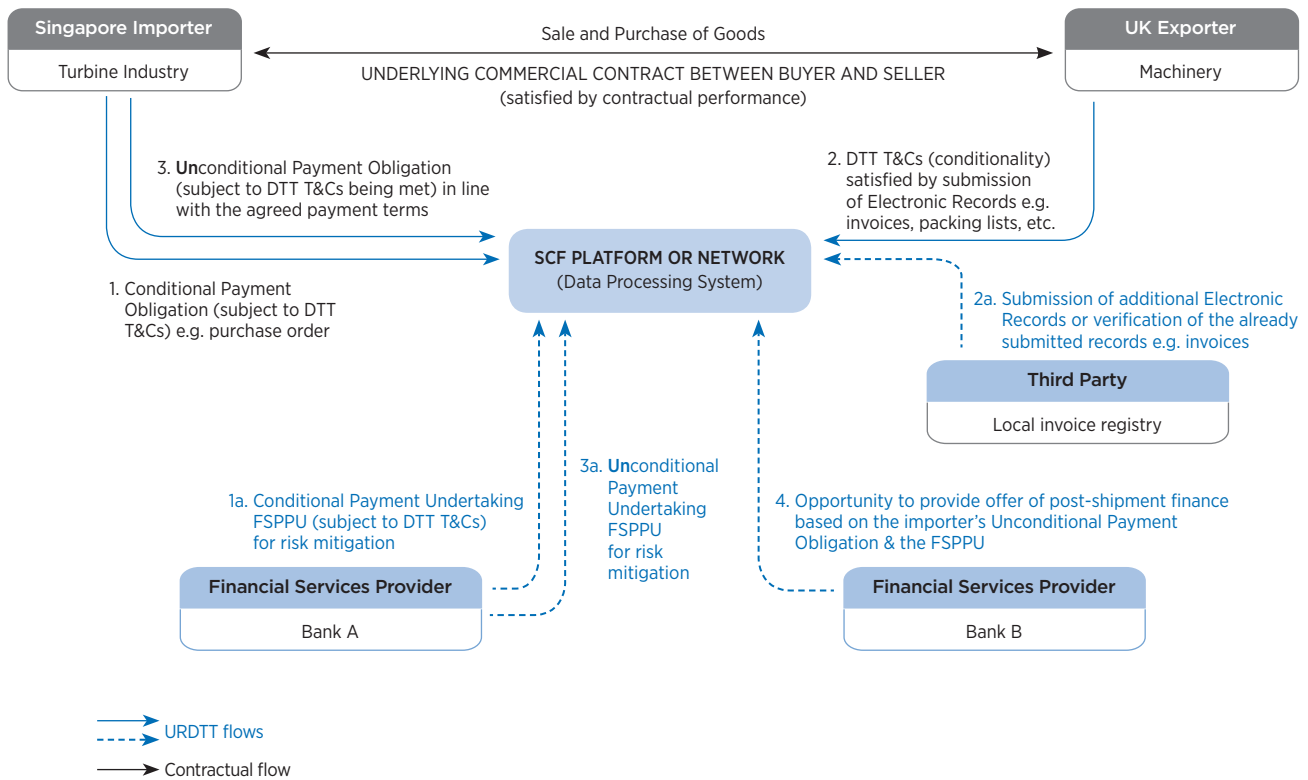


Figure 18: Post-shipment finance based on the importer's unconditional Payment Obligation and FSPPU

An underlying commercial contract exists between the buyer and seller whereby it has been agreed by both parties to use a DTT subject to URDTT Version 1.0.

1. As a result, the buyer incurs a conditional Payment Obligation which is subject to the terms and conditions of the DTT and the purchase order is submitted to the pre-agreed 'platform'.
 - a. Provides a Financial Services Provider an opportunity to add a Payment Undertaking for risk mitigation, based on the buyer's conditional Payment Obligation and subject to the term and conditions of the DTT.
2. Subsequently, the seller submits electronic records such as invoices and packing lists, which fulfil the conditionality of the DTT.
 - a. Supplementary electronic records may be submitted by a third party, if required.
3. If the submission is compliant, the Payment Obligation converts to unconditional in line with agreed payment terms.
 - a. Provides a Financial Services Provider an opportunity to add a Payment Undertaking for risk mitigation, based on the buyer's unconditional Payment Obligation.
4. At this stage, a further Financial Services Provider has the opportunity to offer post-shipment financing to the seller based upon the buyer's unconditional Payment Obligation and the Payment Undertaking of the other Financial Services Provider.

Annex 1

ICC Digital Rules—a comparison

	URDTT Version 1.0	eUCP Version 2.0	URBPO Version 1.0
Preliminary Considerations	<p>Intended:</p> <ul style="list-style-type: none"> (a) for a fully digital environment; (b) to be neutral with regard to technology and messaging standards; and (c) to extend into the corporate space, including commercial transactions and the growing community of non-bank providers of financial services <p>Designed to be compatible with UNCITRAL Model Laws, including those on Electronic Commerce, Electronic Signatures and Electronic Transferable Records</p>	<p>Mode of presentation (electronic records alone or in combination with paper documents) is outside the scope of the eUCP</p> <p>Where not defined or amended in the eUCP, definitions given in UCP 600 will continue to apply</p> <p>Banks should satisfy themselves that they can examine the required electronic records in a presentation made under an eUCP credit</p>	<p>No equivalent in the rules</p>
Applicable instrument	<p>Digital Trade Transaction (DTT)—a process whereby Electronic Records are used to evidence the underlying sale and purchase of goods or services, and the incurring of a Payment Obligation, as agreed between the Principal Parties</p>	<p>Documentary Credit—any arrangement, however named or described, that is irrevocable and thereby constitutes a definite undertaking of the issuing bank to honour a complying presentation</p>	<p>Bank Payment Obligation (BPO)—an irrevocable and independent undertaking of an Obligor Bank to pay or incur a deferred Payment Obligation and pay at maturity a specified amount to a Recipient Bank</p>
Scope	<p>Provide a framework that applies to each Party or Person that participates in a DTT</p> <p>Intended for a fully digital environment whereby Electronic Records are used to evidence the underlying sale and purchase of goods or services, and the incurring of a Payment Obligation, as agreed between the Principal Parties</p>	<p>Electronic records alone or in combination with paper documents</p>	<p>Limited to bank- to-bank undertakings in support of collaboration between participating financial institutions leaving banks to compete in terms of their corporate service agreements—the rules provide a framework for a BPO—a BPO relates to an underlying trade transaction between a buyer and seller</p>
Application	<p>When the terms and conditions of a Digital Trade Transaction specify that it is subject to the URDTT</p>	<p>Documentary credit issued subject to UCP 600 & eUCP Version 2.0</p>	<p>When the Payment Obligation Segment within an Established Baseline expressly states that it is subject to the URBPO or when each Involved Bank agrees in a separate agreement that a BPO is subject to the URBPO</p>
Version number	<p>Version 1.0—if the terms and conditions of a DTT do not indicate the applicable version of the URDTT, it will be subject to the latest version in effect on the date the DTT is first agreed by the Principal Parties</p>	<p>Version 2.0—an eUCP credit must indicate the applicable version of the eUCP. If not indicated, it is subject to the latest version in effect on the date the eUCP credit is issued or, if made subject to eUCP by an amendment accepted by the beneficiary, on the date of that amendment</p>	<p>Version 1.0</p>
Relationship	<p>URDTT are stand-alone</p>	<p>In event of conflict, eUCP prevails over UCP 600</p>	<p>URBPO are stand-alone</p>

	URDTT Version 1.0	eUCP Version 2.0	URBPO Version 1.0
Autonomy	A Financial Services Provider does not deal with the goods or services to which an Electronic Record submitted under a DTT refers	Banks do not deal with the goods, services or performance to which an electronic record or paper document may relate	An Involved Bank deals with data and not with documents, or the goods, services or performance to which the data or documents may relate
Modification or exclusion	Binding on each Party or Person unless and to the extent expressly modified or excluded by the terms and conditions of that DTT	Binding on all parties thereto unless expressly modified or excluded by the credit	Binding on each Involved Bank unless expressly modified or excluded by the Established Baseline or by the separate agreement
Definitions	<p>Definitions, where applicable, are consistent with those used in the ICC eRules (eUCP & eURC) and aligned with those used in local law—however, many legal definitions differ among themselves in formulation if not meaning</p> <p>As a result, URDTT definitions, to the extent possible, are modelled on those stated in the UNCITRAL Model Law on Electronic Commerce (MLEC) and the UNCITRAL Model Law on Electronic Transferable Records (MLETR)</p>	Where terms are also used in UCP 600, definitions are updated for application to an electronic record	<p>The URBPO includes a list of defined terms for the roles of the various banks and other key terms used within the scope of the rules</p> <p>In order to differentiate the URBPO from other ICC rules, terminology that is often associated with existing rules, such as issuing bank, advising bank, confirming bank, etc. was not used and, instead, a new terminology was introduced</p>
Definition—Addressee (Also refer 'Submitter / Addressee—responsibilities' below)	Party or Person that receives or is granted access to an Electronic Record by the Submitter	<p>Presentation means either the delivery of documents under a credit to the issuing bank</p> <p>or nominated bank or the documents so delivered</p>	Refer to article 4 'Message Definitions'
Definition—Beneficiary	The Seller or any other Party or Person that has acquired the rights and benefits of a Payment Obligation, in whole or in part, as a transferee	The party in whose favour a credit is issued	The Recipient Bank, which is always the Seller's Bank
Definition—Business Day	A day on which a Party or Person is regularly open at the place at which an act subject to these rules is to be performed by such Party or Person	References banking hours and calendar days	References Banking Day which is a day on which an Involved Bank is regularly open at the place at which an act subject to the URBPO is to be performed by such Involved Bank
Definition—Buyer	A purchaser of goods or services	Applicant on whose request the credit is issued	References the Buyer's Bank rather than the buyer
Definition—Data corruption (Also refer 'Data corruption' below)	Means any distortion or loss of data that renders an Electronic Record, as submitted, unreadable in whole or in part, as determined by the Addressee—if an Electronic Record appears to have been affected by Data Corruption, it may be re-submitted	Provides a method by which corrupted data may be re-presented; based on the assumption that all electronic records are replaceable	"Data Mismatch" means a comparison of all required Data Sets with an Established Baseline resulting in one or more mismatches as specified in a Data Set Match Report
Definition—Data Processing System (Also refer 'Data processing system' below)	A computerised or an electronic or any other automated means used to process and manipulate data, initiate an action or respond to data messages in whole or in part	A computerised or an electronic or any other automated means used to process and manipulate data, initiate an action or respond to data messages or performances in whole or in part	Any centralised data matching and workflow application, whether or not proprietary to an Involved Bank, which provides the service of processing messages received from Involved Banks

	URDTT Version 1.0	eUCP Version 2.0	URBPO Version 1.0
Definition— Electronic Record	Data created, generated, sent, communicated, received or stored by electronic means—likely that common usage will refer to ‘electronic documents’	Data created, generated, sent, communicated, received or stored by electronic means	Refers to a ‘Data Set’— ‘commercial, transport, insurance, certificate or other certificate’
Definition— Electronic signature (Also refer ‘Electronic signature’ below)	A data process attached to or logically associated with an Electronic Record and executed or adopted by a Party or Person in order to identify that Party or Person and to indicate authentication of the Electronic Record by that Party or Person	A data process attached to an electronic record with the intent of identifying the signer and authenticating the record	The URBPO require use of the appropriate ISO 20022 Trade Services Management (TSMT) messages registered with the International Standards Organisation (ISO)
Definition— Financial Services Provider (Also refer ‘Roles of a Financial Services Provider’ below)	A financial institution or a Person, other than a Principal Party	Represented by a bank	Represented by a bank
Definition— ‘Confirmation’/ Financial Services Provider Payment Undertaking (FSPPU) (Also refer ‘FSPPU’ below)	<p>Financial Services Provider Payment Undertaking (FSPPU)—an irrevocable Payment Undertaking of a Financial Services Provider to effect payment at sight or on a fixed or determinable future date to the Beneficiary of a Payment Obligation</p> <p>It is possible for an FSPPU to be added to a conditional Payment Obligation</p> <p>Both a conditional Payment Obligation and any associated FSPPU are subject to the conditionality of the DTT, but independent of the commercial contract</p> <p>However, an unconditional Payment Obligation and any associated FSPPU are separate and independent of the commercial contract and the DTT</p>	UCP 600 definition applies—a definite undertaking of the confirming bank, in addition to that of the issuing bank, to honour or negotiate a complying presentation	An Obligor Bank must pay or incur a deferred Payment Obligation and pay at maturity a specified amount to a Recipient Bank in accordance with the payment terms specified in the Payment Obligation Segment of an Established Baseline
Definition— Obligor	A Buyer that incurs a Payment Obligation or any Financial Services Provider that adds its FSPPU to a Payment Obligation	Confirming bank that adds its confirmation to a credit upon the issuing bank’s authorisation or request	Obligor Bank is the bank that issues a BPO
Definition—Party	A Principal Party or a Financial Services Provider	No equivalent in the rules	No equivalent in the rules
Definition— Payment Obligation (Also refer ‘Payment Obligation’ below)	An irrevocable obligation, incurred by a Buyer, that constitutes a definite undertaking to effect payment at sight, or on a fixed or determinable future date, to the Beneficiary	UCP 600 definitions of ‘Credit’ and ‘Honour’	‘Bank Payment Obligation’ or ‘BPO’ means an irrevocable and independent undertaking of an Obligor Bank to pay or incur a deferred Payment Obligation and pay at maturity a specified amount to a Recipient Bank following Submission of all Data Sets

	URDTT Version 1.0	eUCP Version 2.0	URBPO Version 1.0
Definition—Person	Any type of person or entity, whether physical, corporate or other legal person or entity	Not defined and only mentioned in relation to identification of a person in respect of an electronic record in order to indicate authentication	Not defined and only mentioned in relation to the disclaimer on effectiveness of data
Definition—Principal Party (Also refer 'Roles of a Principal Party' below)	A Buyer or a Seller	No equivalent in the rules	No equivalent in the rules
Definition—Received (Also refer 'Format' below)	<p>The process by which an Electronic Record enters the Data Processing System of an Addressee in a format capable of being accepted by that Data Processing System and being examined by that Addressee for compliance with the terms and conditions of a DTT</p> <p>Any acknowledgement of receipt generated by a Data Processing System does not imply that an Electronic Record has been viewed, examined or determined to be compliant or non-compliant by an Addressee</p>	<p>When an electronic record enters a data processing system, at the place for presentation indicated in the eUCP credit, in a format capable of being accepted by that system</p> <p>Any acknowledgment of receipt generated by that system does not imply that the electronic record has been viewed, examined, accepted or refused under an eUCP credit</p>	Any centralised data matching and workflow application, whether or not proprietary to an Involved Bank, which provides the service of processing messages received from Involved Banks
Definition—Seller	A seller of goods or services	References the beneficiary as the party in whose favour a credit is issued	References the Seller's Bank rather than the seller
Definition—Submitter (Also refer 'Submitter/ Addressee—responsibilities' below)	A Party or Person that sends, or makes available, an Electronic Record to an Addressee	Presenter means a beneficiary, bank or other party that makes a presentation	"Submitting Bank" means an Involved Bank whose only role is to submit one or more Data Sets required by an Established Baseline
Definition—Transfer	The transferring of the rights and benefits of a Payment Obligation (in whole or in part) and, where added, an FSPPU (in whole or in part), by the Beneficiary to one or more transferees	UCP 600 article 38 (Transferable Credits)—a credit that has been made available by the transferring bank to a second beneficiary	Transfer requires an amendment to the Established Baseline
Definition—Universal Time Coordinated (UTC)	The international time scale defined by the International Telecommunications Union used by electronic computing and data management equipment, and the technical equivalent of GMT, Greenwich Mean Time—the time scale is used in respect of non-compliance and data corruption	<p>In view of the fact that practice is still evolving in this field, it was recommended that the UTC concept would not, at this stage, be included within the eUCP rules</p> <p>Should it be deemed necessary, the concept could be included in a future version of eUCP</p>	The international time scale defined by the International Telecommunications Union used by electronic computing and data management equipment, and the technical equivalent of GMT, Greenwich Mean Time, and is the applicable time scale for a BPO
Interpretations	<ul style="list-style-type: none"> • singular/ plural • or / and • include / includes / including 	<ul style="list-style-type: none"> • singular/ plural • irrevocability • signed • legalisation / certification • branches • general terminology • from / after 	<ul style="list-style-type: none"> • singular/ plural • branches

	URDTT Version 1.0	eUCP Version 2.0	URBPO Version 1.0
Roles of a Principal Party	<p>Seller</p> <ul style="list-style-type: none"> • delivery of goods or the supply of services • providing information enabling the above • providing any additional information as may be required <p>Buyer</p> <ul style="list-style-type: none"> • taking delivery of goods or receiving services • incurring an unconditional Payment Obligation and effecting payment 	No equivalent in the rules	No equivalent in the rules
Roles of a Financial Services Provider	<ul style="list-style-type: none"> • providing finance or risk mitigation • effecting payment • adding an FSPPU and, when doing so, bound by same version of URDTT as applicable to Principal Parties • as Addressee of an Electronic Record and acts subsequently as a Submitter of the same Electronic Record, assumes liability and responsibility for that Electronic Record 	Various roles in UCP 600 including advising bank, confirming bank, issuing bank, nominated bank, claiming bank, reimbursing bank	Various roles including Buyer's Bank, Involved Bank, Obligor Bank, Recipient Bank, Seller's Bank, Submitting Bank
Submitter / Addressee—responsibilities (Also refer disclaimers on effectiveness and liability below)	<p>Submitter</p> <ul style="list-style-type: none"> • ensure authenticity, accuracy and completeness of an Electronic Record • no liability or responsibility for the consequences arising out of the unavailability of a Data Processing System other than its own <p>Addressee</p> <ul style="list-style-type: none"> • no responsibility for accuracy and completeness of an Electronic Record except when subsequently acting as a Submitter for that Electronic Record • no liability or responsibility for the consequences arising out of the unavailability of a Data Processing System other than its own 	Refer to UCP 600 article 7 (Issuing Bank Undertaking), article 8 (Confirming Bank Undertaking), article 9 (Advising of Credits and Amendments), article 13 (Bank-to-Bank Reimbursement Arrangements)	Refer to article 4 'Message Definitions'
Document	<p>URDTT solely covers electronic documents ('electronic records').</p> <p>All data relating to a Digital Trade Transaction must be associated with, and be submitted by, a Submitter to an Addressee, in the form of an Electronic Record</p>	Adds the term 'electronic record' to the meaning of a document in UCP 600	The BPO works in an environment that is totally automated, relying on the comparison and matching of structured messages as opposed to the physical examination of paper documents

	URDTT Version 1.0	eUCP Version 2.0	URBPO Version 1.0
Originals & copies	Any requirement for submission of one or more originals or copies of an Electronic Record is satisfied by the submission of one Electronic Record	Any requirement for an original is satisfied by the presentation of one electronic record: in the event of a requirement for multiple copies, the condition will be fulfilled by presentation of one electronic record	The URBPO require use of the appropriate ISO 20022 Trade Services Management (TSMT) messages registered with the International Standards Organisation (ISO)—the concept of originality does not apply
Presentation of only paper documents	This is a 'practice' issue which cannot be mandated by rules that solely cater for a fully digital environment. It is expected that, in the event part of a transaction 'converts' to paper, then the involved parties would reach a separate agreement on how to proceed	UCP 600 applies	URBPO only provides a framework for the electronic presentation of data that has been extracted from the underlying documents
Complying presentation	A DTT must specify the terms and conditions by which compliance of an Electronic Record will be determined	A presentation that is in accordance with the terms and conditions of the credit, the applicable provisions of UCP 600 and international standard banking practice	An Obligor Bank must pay or incur a deferred Payment Obligation and pay at maturity a specified amount to a Recipient Bank in accordance with the payment terms specified in the Payment Obligation Segment of an Established Baseline if, following the Submission of all Data Sets required by an Established Baseline on or before the expiry date of the BPO specified in the Established Baseline and following a data comparison
Non-compliance	Submitter must be informed by the Addressee of each reason for non-compliance of that Electronic Record in a single notice	UCP 600 article 16 (Discrepant Documents, Waiver and Notice)—when a nominated bank acting on its nomination, a confirming bank, if any, or the issuing bank decides to refuse to honour or negotiate, it must give a single notice to that effect to the presenter	'Data Mismatch' means a comparison of all required Data Sets with an Established Baseline resulting in one or more mismatches as specified in a Data Set Match Report
Period for examination	If an Addressee does not inform the Submitter by 23.59.59 UTC on the second Business Day following the date an Electronic Record is Received that it is non-compliant, that Electronic Record shall be considered as having been accepted by that Addressee	Maximum of five banking days following the day of presentation to determine if a presentation is complying	An Established Baseline must state an expiry date for the Submission of Data Sets
Document examination	Capable of being examined for compliance with the terms and conditions of a DTT	Electronic records are examined only for the data received and not the reality that such data represents	The URBPO require use of the appropriate ISO 20022 Trade Services Management (TSMT) messages registered with the International Standards Organisation (ISO)
Non-required documents	An Electronic Record submitted but not required by the terms and conditions of a DTT may be disregarded and disposed of by an Addressee in any manner deemed appropriate without any responsibility	A document presented but not required by the credit will be disregarded and may be returned to the presenter	Use of any other message type than ISO 20022 Trade Services Management (TSMT) messages means that the transaction is out of scope of URBPO—only those TSMT messages that are applicable to a BPO are referred to in the URBPO

	URDTT Version 1.0	eUCP Version 2.0	URBPO Version 1.0
Data corruption	<p>In event of data corruption, the Addressee may inform the Submitter and may request that it be re-submitted</p> <p>If an Addressee does not inform the Submitter by 23.59.59 UTC on the second Business Day following the date an Electronic Record is Received that it appears to have been affected by Data Corruption, that Electronic Record shall be considered as being in compliance with the terms and conditions of the Digital Trade Transaction</p> <p>If not resubmitted by Submitter, the Addressee may treat the Electronic Record as not submitted and may dispose of it in any manner deemed by it to be appropriate without any responsibility</p>	<p>In event of data corruption, the receiving bank may inform the presenter and may request that it be re-submitted</p> <p>In such circumstances, the time for examination is suspended and resumes when the electronic record is re-presented</p> <p>If the nominated bank is not a confirming bank, it must provide any confirming bank and the issuing bank with notice of the request for the electronic record to be re-presented and inform it of the suspension</p> <p>However, if the same electronic record is not re-presented within 30 calendar days, or on or before the expiry date and/or last day for presentation, whichever occurs first, the bank may treat the electronic record as not presented.</p>	<p>“Data Mismatch” means a comparison of all required Data Sets with an Established Baseline resulting in one or more mismatches as specified in a Data Set Match Report</p>
Electronic signature	<p>Where an Electronic Signature of a Party or Person is used, it is to be in compliance with any conditions specific to that Electronic Signature in the DTT</p>	<p>Sign and the like shall include an electronic signature</p>	<p>No equivalent in the rules</p>
Data processing system	<p>Any acknowledgement of receipt generated by a Data Processing System does not imply that an Electronic Record has been viewed, examined or determined to be compliant or non-compliant by an Addressee</p>	<p>No separate article</p>	<p>No separate article</p>
Payment Obligation	<p>Incurred by a Buyer upon compliance with the terms and conditions of the DTT by the Seller</p> <p>When stated to be conditional, the obligation of the Buyer is to pay upon compliance with the terms and conditions of the DTT by the Seller and is then automatically amended to become unconditional and independent</p> <p>Sub-article 12 (c) outlines the required data elements</p> <p>May only be amended or cancelled by a Principal Party with the agreement of the other Principal Party, any Financial Services Provider that has added its FSP Payment Undertaking, and any other Beneficiary</p>	<p>UCP 600 definitions of ‘Credit’ and ‘Honour’</p>	<p>‘Bank Payment Obligation’ or ‘BPO’ means an irrevocable and independent undertaking of an Obligor Bank to pay or incur a deferred Payment Obligation and pay at maturity a specified amount to a Recipient Bank following Submission of all Data Sets</p>

	URDTT Version 1.0	eUCP Version 2.0	URBPO Version 1.0
FSPPU	<p>May be added, in whole or in part, at any time, by a Financial Services Provider</p> <p>Once added, constitutes an undertaking to effect payment at sight or on a fixed or determinable future date to the Beneficiary of that Payment Obligation</p> <p>A Financial Services Provider is not obligated to add an FSPPU but, if not prepared to do so, must inform the requesting Principal Party or other Beneficiary without delay</p> <p>An unconditional FSPPU is separate from, and independent of, the DTT</p> <p>More than one FSPPU may exist and, if so, each Financial Services Provider will be severally and individually liable to the extent of its FSPPU</p> <p>May only be amended or cancelled with the agreement of each Principal Party and any other Beneficiary</p>	<p>UCP 600 definition applies—a definite undertaking of the confirming bank, in addition to that of the issuing bank, to honour or negotiate a complying presentation</p>	<p>An Obligor Bank must pay or incur a deferred Payment Obligation and pay at maturity a specified amount to a Recipient Bank in accordance with the payment terms specified in the Payment Obligation Segment of an Established Baseline</p>
Amendments	<p>An amendment to the terms and conditions of a Digital Trade Transaction requires the agreement of each Principal Party, each Financial Services Provider that has issued an FSPPU and any other Beneficiary</p>	<p>UCP 600 article 10 (Amendments)—a credit can neither be amended nor cancelled without the agreement of the issuing bank, the confirming bank, if any, and the beneficiary</p>	<p>An amendment to an Established Baseline that incorporates a BPO or an amendment to incorporate a BPO in an Established Baseline requires the agreement of each Involved Bank</p>
Transfer	<p>A Payment Obligation and an FSPPU may specify in its terms and conditions that it is transferable</p>	<p>Before agreeing to transfer an eUCP credit, banks should satisfy themselves that they can examine the required electronic records in a presentation made thereunder</p> <p>Refer also UCP 600 article 38 Transferable Credits</p>	<p>Refer to article 16 Assignment of Proceeds</p>
Force Majeure	<p>In addition to eUCP coverage, covers 'plague, epidemic, natural disaster or extreme natural event', and emphasises that force majeure applies to data processing systems 'other than its own'</p>	<p>Extended to cover the inability of a bank to access a data processing system, or a failure of equipment, software or communications network</p>	<p>No liability or responsibility for the consequences arising out of the interruption of its business, including its inability to access a TMA, or a failure of equipment, software or communications network, caused by Acts of God, riots, civil commotions, insurrections, wars, acts of terrorism, or by any strikes or lockouts or any other causes, including failure of equipment, software or communications networks, beyond its control</p>
Applicable Law	<p>The applicable law shall be as specified in the terms and conditions of the DTT</p>	<p>Not expressly stated in either UCP 600 or eUCP Version 2.0—there is no conflict between most eCommerce laws and the eUCP</p>	<p>The governing law of a BPO will be that of the location of the branch or office of the Obligor Bank specified in the Established Baseline</p>

	URDTT Version 1.0	eUCP Version 2.0	URBPO Version 1.0
Format	An Electronic Record must be in a format capable of being accepted by a Data Processing System and being examined by an Addressee for compliance with the terms and conditions of a Digital Trade Transaction	The protocol by which data is organised, the version of that format, or the shorthand name by which that protocol is recognised and described—an eUCP credit must indicate the format of each electronic record	The Bank Payment Obligation is based on a standard ISO 20022 messaging format that facilitates the technological integration of trade, payment and cash management data—ISO 20022 TSMT standards specify the format for commercial, transport, insurance and certificate Data Sets to be submitted by an Involved Bank in respect of an underlying trade transaction
Authentication	An Electronic Record executed or adopted by a Person in order to identify that Person and to indicate that Person's authentication of the Electronic Record	Identifying the person sending a message and the source of the message, and associating the person authenticating with the content of the message authenticated	ISO 20022 message types as published under the trade services management business area by the International Standards Organisation (ISO)
Disclaimer on effectiveness	Other than in respect of the submission of an Electronic Record, a Financial Services Provider assumes no liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any Electronic Record, or for the general or particular conditions stipulated in an Electronic Record; nor does it assume any liability or responsibility for the description, quantity, weight, quality, condition, packing, delivery, value or existence of the goods, services or other performance represented by any Electronic Record, or for the good faith or acts or omissions, solvency, performance or standing of the consignor, the carrier, the forwarder, the consignee or the insurer of the goods or any other Person	A bank assumes no liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any document, or for the general or particular conditions stipulated in a document or superimposed thereon; nor does it assume any liability or responsibility for the description, quantity, weight, quality, condition, packing, delivery, value or existence of the goods, services or other performance represented by any document, or for the good faith or acts or omissions, solvency, performance or standing of the consignor, the carrier, the forwarder, the consignee or the insurer of the goods or any other person	An Involved Bank does not assume any liability or responsibility for: (i) the source, accuracy, genuineness, falsification or legal effect of any data received from the buyer or seller; (ii) the documents, or the description, weight, quality, condition, packing, delivery, value or existence of the goods, services or other performance, to which such data relates; or (iii) the good faith or acts or omissions, solvency, performance or standing of the consignor, carrier, forwarder, consignee or insurer of the goods or any other person referred to in any data
Disclaimer of liability	A Submitter has responsibility to ensure the authenticity, accuracy and completeness of an Electronic Record as set out in the terms and conditions of such Electronic Record, the DTT to which it refers, or as a result of applicable law or regulations. An Addressee has no responsibility for the accuracy and completeness of an Electronic Record, as Received from a Submitter, except when subsequently acting as a Submitter for that Electronic Record	Disclaims banks' liability for any divergence from the realities represented in authenticated electronic records -by satisfying itself as to the apparent authenticity of an electronic record, a bank assumes no liability for the identity of the sender, source of the information, or its complete and unaltered character other than that which is apparent in the electronic record received by the use of a data processing system for the receipt, authentication, and identification of electronic records	An Involved Bank assumes no liability or responsibility for the consequences arising out of the unavailability of a TMA for any reason whatsoever
Dispute resolution	Not expressly stated in URDTT—the ICC has developed rules for dispute resolution (DOCDEX)	Not expressly stated in either UCP 600 or eUCP Version 2.0—the ICC has developed rules for dispute resolution (DOCDEX)	Not expressly stated in URBPO—the ICC has developed rules for dispute resolution (DOCDEX)

SOURCE: www.tradefinance.training

Annex 2

Full text of URDTT Version 1.0

Preliminary Considerations

The ICC Uniform Rules for Digital Trade Transactions (URDTT) are intended: (a) for a fully digital environment; (b) to be neutral with regard to technology and messaging standards; and (c) to extend into the corporate space, including commercial transactions and the growing community of non-bank providers of financial services.

The URDTT are designed to be compatible with UNCITRAL Model Laws, including those on Electronic Commerce, Electronic Signatures and Electronic Transferable Records.

Article 1: Scope of the Uniform Rules for Digital Trade Transactions (URDTT) Version 1.0

- a. The Uniform Rules for Digital Trade Transactions (URDTT) provide a framework that applies to each Party or Person that participates in a Digital Trade Transaction.
- b. A Digital Trade Transaction is a process, as agreed between the Principal Parties, whereby Electronic Records are used to evidence the underlying sale and purchase of goods or services, and the incurring of a Payment Obligation.
- c. The URDTT shall apply when the terms and conditions of a Digital Trade Transaction specify that it is subject to these rules. The URDTT are binding on each Party or Person unless and to the extent expressly modified or excluded by the terms and conditions of that Digital Trade Transaction.
- d. This version is Version 1.0. If the terms and conditions of a Digital Trade Transaction do not indicate the applicable version of the URDTT, it will be subject to the latest version in effect on the date such Digital Trade Transaction is first agreed by the Principal Parties.

Article 2: Definitions

For the purpose of these rules:

Addressee means the Party or Person that receives or is granted access to an Electronic Record by the Submitter.

Beneficiary means the Seller or any other Party or Person that has acquired the rights and benefits of a Payment Obligation, in whole or in part, as a transferee.

Business Day means a day on which a Party or Person is regularly open at the place at which an act subject to these rules is to be performed by such Party or Person.

Buyer means a purchaser of goods or services.

Data Corruption means any distortion or loss of data that renders an Electronic Record, as submitted, unreadable in whole or in part, as determined by the Addressee.

Data Processing System means a computerised or an electronic or any other automated means used to process and manipulate data, initiate an action or respond to data messages in whole or in part.

Electronic Record means data created, generated, sent, communicated, Received or stored by electronic means, including, where appropriate, all information logically associated with or otherwise linked together so as to become part of the record, whether generated contemporaneously or not, that is:

- capable of being authenticated as to the apparent identity of a Submitter and the apparent source of the data contained in it and as to whether it has remained complete and unaltered; and
- capable of being examined for compliance with the terms and conditions of a Digital Trade Transaction.

Electronic Signature means a data process attached to or logically associated with an Electronic Record and executed or adopted by a Party or Person in order to identify that Party or Person and to indicate authentication of the Electronic Record by that Party or Person.

Financial Services Provider (FSP) means a financial institution or a Person, other than a Principal Party.

FSP Payment Undertaking means an irrevocable undertaking of a Financial Services Provider to effect payment at sight or on a fixed or determinable future date to the Beneficiary of a Payment Obligation.

Obligor means a Buyer that incurs a Payment Obligation or any Financial Services Provider that adds its FSP Payment Undertaking to a Payment Obligation.

Party means a Principal Party or a Financial Services Provider.

Payment Obligation means an irrevocable obligation, incurred by a Buyer, that constitutes a definite undertaking to effect payment at sight, or on a fixed or determinable future date, to the Beneficiary.

Person means any type of person or entity, whether physical, corporate or other legal person or entity.

Principal Party means a Buyer or a Seller.

Received means the process by which an Electronic Record enters the Data Processing System of an Addressee in a format capable of being accepted by that Data Processing System and being examined by that Addressee for compliance with the terms and conditions of a Digital Trade Transaction.

Seller means a seller of goods or services.

Submitter means a Party or Person that sends, or makes available, an Electronic Record to an Addressee.

Transfer means the transferring of the rights and benefits of a Payment Obligation (in whole or in part) and, where added, an FSP Payment Undertaking (in whole or in part), by the Beneficiary to one or more transferees.

UTC means Universal Time Co-ordinated, the international time scale defined by the International Telecommunications Union used by electronic computing and data management equipment, and the technical equivalent of Greenwich Mean Time (GMT).

Article 3: Interpretations

For the purpose of these rules:

- a. Where applicable, words in the singular include the plural and in the plural include the singular.
- b. Unless the context otherwise requires, “A or B” means “A or B or both”, and “A and B” means “both A and B”.
- c. Use of the words “include”, “includes” and “including” is by way of illustration or emphasis only and should not be construed as, nor should take effect as, limiting the generality of any subsequent words.

Article 4: Principal Party

For the purpose of these rules:

- a. The role of a Seller includes:
 - i) the delivery of goods or the supply of services in accordance with the terms and conditions of a Digital Trade Transaction;
 - ii) providing information required to enable the delivery of goods or the supply of services; and
 - iii) providing any additional information as may be required including Electronic Records of certificates of inspection and insurance.
- b. The role of a Buyer includes:
 - i) taking delivery of goods or receiving services that comply with the terms and conditions of the Digital Trade Transaction; and
 - ii) upon compliance with the terms and conditions of the Digital Trade Transaction by the Seller, incurring an unconditional Payment Obligation and effecting payment in accordance with that Payment Obligation.

Article 5: Financial Services Provider

For the purpose of these rules:

- a. The role of a Financial Services Provider includes:
 - i) providing finance or risk mitigation to a Beneficiary or Buyer or other Financial Services Provider; or
 - ii) effecting payment to a Beneficiary; or
 - iii) if requested by a Principal Party or any other Beneficiary, and such request is accepted, adding its FSP Payment Undertaking to a Payment Obligation and effecting payment thereunder at sight or on a fixed or determinable future date, according to the terms and conditions of its FSP Payment Undertaking.

- b.** A Financial Services Provider does not deal with the goods or services to which an Electronic Record submitted under a Digital Trade Transaction may refer.
- c.**
 - i.** Other than in respect of the submission by it of an Electronic Record, a Financial Services Provider assumes no liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any Electronic Record, or for the general or particular conditions stipulated in an Electronic Record; nor does it assume any liability or responsibility for the description, quantity, weight, quality, condition, packing, delivery, value or existence of the goods, services or other performance represented by any Electronic Record, or for the good faith or acts or omissions, solvency, performance or standing of the consignor, the carrier, the forwarder, the consignee or the insurer of the goods or any other Person.
 - ii.** Notwithstanding sub-article 5 (c) (i), if a Financial Services Provider, as Addressee of an Electronic Record, acts subsequently as a Submitter of the same Electronic Record, it assumes liability and responsibility for that Electronic Record and any additional information that it then attaches to that Electronic Record.
- d.** When a Financial Services Provider adds its FSP Payment Undertaking to a Payment Obligation, it is bound by the same version of the URDTT that is applicable to the Principal Parties, including any modification or exclusion thereto that was agreed in the terms and conditions of the Digital Trade Transaction.

Article 6: Submitter and Addressee

- a.** A Submitter has responsibility to ensure the authenticity, accuracy and completeness of an Electronic Record or as a result of applicable law or regulations.
- b.** An Addressee has no responsibility for the accuracy and completeness of an Electronic Record, as Received from a Submitter, except when subsequently acting as a Submitter for that Electronic Record.
- c.** Each Submitter and Addressee assumes no liability or responsibility for the consequences arising out of the unavailability of a Data Processing System other than its own.

Article 7: Electronic Records

- a.** A Digital Trade Transaction must specify the terms and conditions by which compliance of an Electronic Record will be determined.
- b.** All data relating to a Digital Trade Transaction must be associated with, and be submitted by, a Submitter to an Addressee, in the form of an Electronic Record.
- c.** Any requirement for submission of one or more originals or copies of an Electronic Record is satisfied by the submission of one Electronic Record.
- d.** An Electronic Record submitted but not required by the terms and conditions of a Digital Trade Transaction may be disregarded and disposed of by an Addressee in any manner deemed by it to be appropriate without any responsibility.

- e. Unless applicable law requires otherwise, a requirement that information should be in writing is satisfied when an Electronic Record containing such information is accessible to an Addressee and is not affected by any Data Corruption.
- f. Where the applicable law requires or permits delivery, transfer or possession of an Electronic Record, that requirement or permission is met by the transfer of that Electronic Record to the exclusive control of the Addressee.

Article 8: Non-Compliance of an Electronic Record

- a. If an Electronic Record does not comply with the terms and conditions of a Digital Trade Transaction or sub-article 7 (b), the Addressee must inform the Submitter, by means of a single notice, stating each reason for non-compliance of that Electronic Record. The notice must be sent no later than 23.59.59 UTC on the second Business Day following the date such Electronic Record is Received.
- b. In this event, and unless otherwise provided in the Digital Trade Transaction, the Digital Trade Transaction cannot be completed until the earliest to occur of the following:
 - i) the Submitter replaces the non-compliant Electronic Record with a compliant Electronic Record no later than 23.59.59 UTC on the latest date for submission of an Electronic Record specified in the Digital Trade Transaction; or
 - ii) the Principal Parties, any other Obligor and any other Beneficiary, amend the terms and conditions of the Digital Trade Transaction as set out in Article 14, resulting in the Electronic Record being compliant; or
 - iii) the Principal Parties, any other Obligor and any other Beneficiary accept the non-compliant Electronic Record or agree that the requirement for such Electronic Record may be removed from the terms and conditions of the Digital Trade Transaction.
- c. If an Addressee does not inform the Submitter by 23.59.59 UTC on the second Business Day following the date an Electronic Record is Received that it is non-compliant, that Electronic Record shall be considered as having been accepted by that Addressee.

Article 9: Data Corruption

- a. If an Electronic Record appears to have been affected by Data Corruption, the Addressee may inform the Submitter and may request that it be re-submitted.
- b. If an Addressee does not inform the Submitter by 23.59.59 UTC on the second Business Day following the date an Electronic Record is Received that it appears to have been affected by Data Corruption, that Electronic Record shall be considered as being in compliance with the terms and conditions of the Digital Trade Transaction.
- c. If, following receipt of an advice of Data Corruption from the Addressee, the Submitter does not resubmit the Electronic Record by 23.59.59 UTC on the latest date for submission of an Electronic Record specified in the Digital Trade Transaction, the Addressee may treat the Electronic Record as not submitted and may dispose of it in any manner deemed by it to be appropriate without any responsibility.

Article 10: Electronic Signature

Where an Electronic Signature of a Party or Person is used, it is to be in compliance with any conditions specific to that Electronic Signature in the Digital Trade Transaction.

Article 11: Data Processing System

Any acknowledgement of receipt generated by a Data Processing System does not imply that an Electronic Record has been viewed, examined or determined to be compliant or non-compliant by an Addressee.

Article 12: Payment Obligation

- a. A Payment Obligation is incurred by the Buyer upon compliance with the terms and conditions of the Digital Trade Transaction by the Seller.
- b. When a Payment Obligation is stated to be conditional, the obligation of the Buyer is to pay upon compliance with the terms and conditions of the Digital Trade Transaction by the Seller. As of that moment, the Payment Obligation is automatically amended to become unconditional and independent.
- c. A Payment Obligation must include the following data elements:
 - i) a unique reference linking the Payment Obligation to the Digital Trade Transaction;
 - ii) the name and address of the Principal Parties and any other Beneficiary;
 - iii) the currency and amount;
 - iv) if the amount is subject to payment of interest, this must be specified together with the basis on which interest is to be calculated and apportioned;
 - v) the date it is incurred;
 - vi) the latest date for submission of Electronic Records;
 - vii) the payment terms:
 1. a) payable at sight; or
 2. b) the fixed or determinable future date or the basis for determining the payment date in accordance with the Payment Obligation and the Electronic Records themselves;
 - viii) whether the Payment Obligation is conditional or unconditional and, if conditional, its conditions are to be as set out in the Digital Trade Transaction; and
 - ix) the applicable law.
- d. A Payment Obligation may specify in its terms and conditions that it is transferable.
- e. A Payment Obligation may only be amended or cancelled by a Principal Party with the agreement of the other Principal Party, any Financial Services Provider that has added its FSP Payment Undertaking, and any other Beneficiary.

Article 13: FSP Payment Undertaking

- a. A Financial Services Provider may, at any time, add its FSP Payment Undertaking to a Payment Obligation, in whole or in part, if requested to do so by a Principal Party or any other Beneficiary.
- b. When a Financial Services Provider adds its FSP Payment Undertaking to a Payment Obligation, it undertakes to effect payment at sight or on a fixed or determinable future date to the Beneficiary of that Payment Obligation.
- c. If a Financial Services Provider is requested to add its FSP Payment Undertaking to a Payment Obligation but is not prepared to do so, it must inform the requesting Principal Party or other Beneficiary without delay.
- d. An FSP Payment Undertaking added in respect of a Payment Obligation that is unconditional, is separate from, and independent of, the Digital Trade Transaction, even if any reference to the Digital Trade Transaction is included in the FSP Payment Undertaking. The Buyer remains liable under the Payment Obligation unless otherwise agreed by each Principal Party and any other Beneficiary.
- e. There may be more than one FSP Payment Undertaking added to a Payment Obligation. In this event, each Financial Services Provider will be severally and individually liable to the extent of its FSP Payment Undertaking.
- f. When a Principal Party or any other Beneficiary makes a request to a Financial Services Provider for an FSP Payment Undertaking to be added to a Payment Obligation and the Financial Services Provider agrees to that request, the Principal Party or that other Beneficiary must, at the time the FSP Payment Undertaking is added, inform the other Principal Party and any other Beneficiary of the name and address of the Financial Services Provider together with details of any limitation as to the liability of that Financial Services Provider, the amount of its FSP Payment Undertaking and, where the Payment Obligation specifies that it is transferable, whether the FSP Payment Undertaking can be transferred and, if so, any conditions that have been imposed by the Financial Services Provider in respect of any such transfer.
- g. An Electronic Record submitted but not required by the terms and conditions of a Payment Obligation to which an FSP Payment Undertaking has been added or where it is not required by the terms and conditions of an FSP Payment Undertaking, may be disregarded and disposed of by a Financial Services Provider in any manner deemed by it to be appropriate without any responsibility.
- h. An FSP Payment Undertaking may only be amended or cancelled with the agreement of each Principal Party and any other Beneficiary. As of that moment the FSP Payment Undertaking will be amended or cancelled.

Article 14: Amendments

- a. An amendment to the terms and conditions of a Digital Trade Transaction requires the agreement of each Principal Party, each Financial Services Provider that has issued an FSP Payment Undertaking and any other Beneficiary. As of that moment the Digital Trade Transaction will be amended.

- b. The terms and conditions of a Digital Trade Transaction, a Payment Obligation or an FSP Payment Undertaking are amended by the submission of a new Electronic Record, that incorporates the amended criteria, to the Addressee of the existing Electronic Record.
- c. Once submitted under a Digital Trade Transaction, a Payment Obligation or an FSP Payment Undertaking, an Electronic Record cannot be amended or deleted with the exception of Electronic Records submitted as referred to in sub-articles 7 (d) and 13 (g).

Article 15: Transfer

- a. Where a Payment Obligation and, where added, an FSP Payment Undertaking is specified to be transferable, a Seller or any other Beneficiary, as transferor, may effect a Transfer in accordance with that Payment Obligation and, where added, an FSP Payment Undertaking and, in both cases, the applicable law. Upon such Transfer, each transferee becomes a Beneficiary under that Payment Obligation and, where added, an FSP Payment Undertaking and retains rights of recourse against the transferor, unless such rights are explicitly waived when the Transfer is effected.
- b.
 - i) If the rights and benefits of a Payment Obligation and, where added, an FSP Payment Undertaking have been transferred, the transferor must, at the time the Transfer is made, advise the Buyer or Financial Services Provider, respectively, of the name and address of each transferee, together with details of the amount transferred to each transferee, and whether the transferee has waived its rights of recourse to the transferor or to any prior transferee.
 - ii) When an FSP Payment Undertaking has been added to a Payment Obligation that indicates that it is transferable, the FSP Payment Undertaking must state whether any Transfer is subject to the prior agreement of the Financial Services Provider.
- d. Any Transfer shall include the transfer of the rights and benefits of any FSP Payment Undertaking that has been added in respect of that Payment Obligation, unless precluded by the Financial Services Provider. If the Transfer of an FSP Payment Undertaking has been precluded by a Financial Services Provider then no Transfer of that Payment Obligation can be made unless that FSP Payment Undertaking has been amended or cancelled.

Article 16: Force Majeure

- a. The Seller or any other Beneficiary assumes no liability or responsibility for the consequences arising out of the interruption of its business, including its inability to access a Data Processing System other than its own, or a failure of equipment, software or communications network, caused by Acts of God, riots, civil commotions, insurrections, wars, acts of terrorism, cyberattacks, or by any strikes or lockouts or any other causes, including failure of equipment, software or communications network, plague, epidemic, natural disaster or extreme natural event beyond their control.
- b. Notwithstanding the provisions of sub-article 16 (a):
 - i) a Buyer that has incurred a Payment Obligation or any Financial Services Provider that has provided its FSP Payment Undertaking to a Payment Obligation will, upon resumption of its business, remain liable to fulfil any Payment Obligation or FSP

Payment Undertaking that became due during such interruption of its business within thirty (30) calendar days following such resumption; and

- ii) the Seller or any other Beneficiary will, upon resumption of its business, remain liable to fulfil any obligation that became due during such interruption of its business within thirty (30) calendar days following such resumption.

Article 17: Applicable Law

- a. The applicable law shall be as specified in the terms and conditions of the Digital Trade Transaction.
- b. The URDTT supplement the choice of the applicable law agreed between the Principal Parties to the extent not prohibited by, and not in conflict with, that applicable law or any applicable regulation.
- c. A Principal Party or, a Financial Services Provider or any other Beneficiary is not required to comply with its obligations under a Digital Trade Transaction, a Payment Obligation or an FSP Payment Undertaking and assumes no liability or responsibility for any consequences in respect of such non-compliance to the extent prohibited by applicable law.

ICC Trade finance publications



International Standard Demand Guarantee Practice (ISDGP) for URDG 758

ICC Pub. No. 814E, €20

The International Standard Demand Guarantee Practice for URDG 758 (ISDGP) is the indispensable companion to the ICC Uniform Rules for Demand Guarantees 758 (URDG). It represents international best practice in demand guarantees. It supplements, but does not amend, the URDG.

The 215 international standard practices in this publication have been collected through a decade of the application of the URDG. They record best practice in demand guarantees throughout the lifecycle of the guarantee: the drafting and issue of guarantees and counter-guarantees, presentations, examinations and payments, rejections and expiry, transfers and assignments, and more.

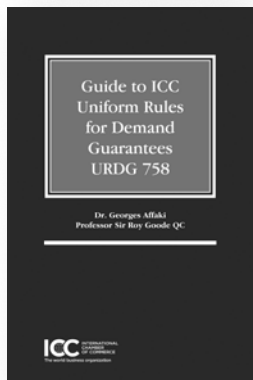


ICC Uniform Rules for Demand Guarantees—URDG 758

ICC Pub. No. 758E, €20

Also available bilingual French English: €20

The *ICC Uniform Rules for Demand Guarantees* (URDG) reflect international standard practice in the use of demand guarantees and balance the legitimate interests of all parties. The current edition, URDG 758, was officially endorsed by the UN Commission on International Trade Law (UNCITRAL) in July 2011.

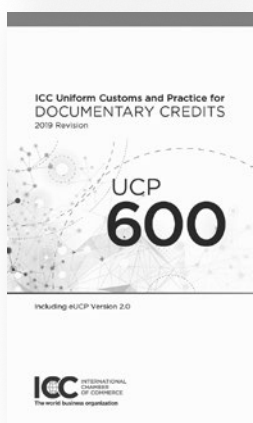


Guide to ICC Uniform Rules for Demand Guarantees

By Dr. Georges Affaki & Sir Roy Goode

ICC Pub. No. 702E, €95

This *Guide* is a vital tool to help you efficiently use ICC's Uniform Rules for Demand Guarantees—indispensable for issuers and users of guarantees and their advisors. The authors have put the essence of their experience in research and teaching the law and practice of demand guarantees over a period of twenty years.



ICC Uniform Customs and Practice for Documentary Credits—UCP 600

ICC Pub. No. 600E, €20

Also available bilingual French English: €20

Uniform Customs and Practice for Documentary Credits (UCP) is a set of rules on the issuance and use of letters of credit. For more than 85 years, the UCP have governed letter of credit transactions worldwide. The rules now also include version 2.0 of the eUCP—the 14 articles of ICC's supplement to the UCP that govern presentation of documents in electronic form.



International Standard Banking Practice

ICC Pub. No. 745E, €20

Also available in French: €20

To reflect current best practice and recent developments in the world of trade finance, the ICC Banking Commission has now updated the successful *International Standard Banking Practice* (ISBP). This publication will greatly help harmonize practice worldwide and thus facilitate the flow of world trade. If you use documentary credits and other trade finance products in your daily job, you should definitely have a copy on your desk.



Uniform Rules for Bank Payment Obligations

ICC Pub. No. 750E, €20

Bank Payment Obligations enable banks to mitigate the risks associated with international trade to the benefit of both buyers and sellers. They enable flexible financing propositions across the supply chain, from pre-shipment to post-shipment.

The world's first rules on BPOs will help harmonize Supply Chain Finance practices and foster a better understanding of those innovative practices.

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The International Chamber of Commerce (ICC) is the institutional representative of more than 45 million companies in over 100 countries. ICC's core mission is to make business work for everyone, every day, everywhere. Through a unique mix of advocacy, solutions and standard setting, we promote international trade, responsible business conduct and a global approach to regulation, in addition to providing market-leading dispute resolution services. Our members include many of the world's leading companies, SMEs, business associations and local chambers of commerce.