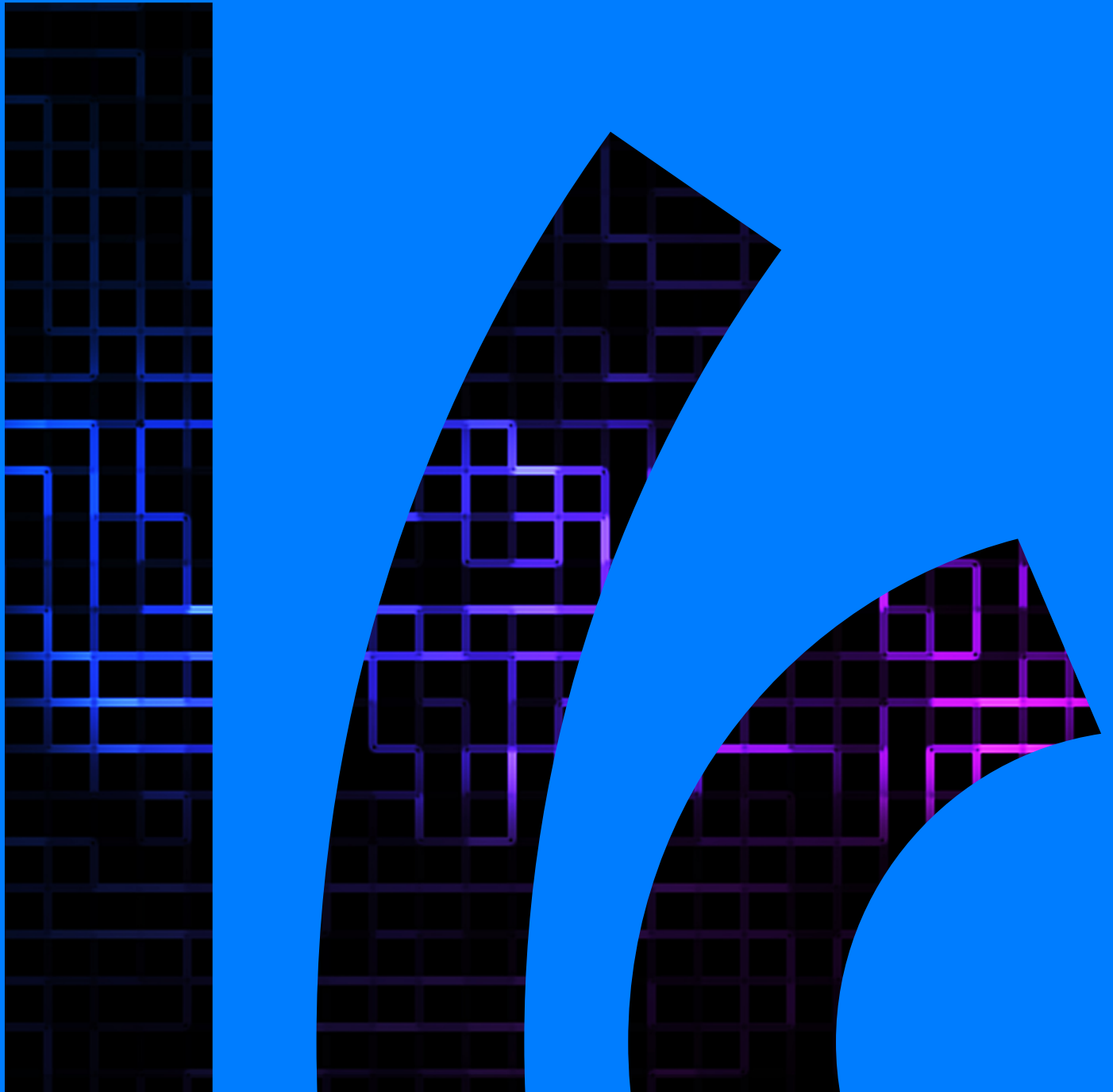


Digitalising commercial trade documents

Legal Reform Technical Assistance Taskforce

For low- to middle-income countries



Introduction

● Chris Southworth, Secretary General, ICC United Kingdom

● Nick Davies, Director, ICC Centre for Digital Trade & Innovation

There is a clear business case for digitalising trade but it's important all countries benefit. Digitalisation is a key enabler to delivering a more inclusive, sustainable and green economy. A primary barrier to digitalising trade systems is that commercial trade documents are not legally accepted in digital form under the law of most countries. There are two priorities — update laws to accept commercial trade documents in digital form and align laws to the UNCITRAL Model Law on Electronic Transferable Records (MLETR), to facilitate a global framework for handling electronic commercial trade documents. Systems won't go fully paperless until all trade documents go digital. Experience shows that if customs documents are digitalised but commercial trade documents are not, then the growth of digitalised documentation is inhibited. Today, despite all the investment in digitalising customs documentation and processes, less than 1% of bills of lading are digital. In the EU, only 1% of all trade documentation is handled digitally.

Momentum is building to digitalise commercial trade documents but the concern is that low to middle income countries will get left behind if technical assistance is not provided. Capacity and support are key issues to address. To date, seven countries have undertaken legal reform to adopt or align legal systems to MLETR. In 2021, the G7 committed to do reform laws with a G7 Ministerial Commitment. Germany, the US and UK all have legislation planned for 2023, with Canada, France, Italy and Japan expected to follow in 2024. Thailand also has legislation drafted. The 86 countries negotiating a WTO Ecommerce Agreement are also expected to make a commitment to align legal systems to MLETR.

A number of other countries have already committed to align to MLETR but have not undertaken reform as yet, such as Australia and New Zealand, with a range of other jurisdictions actively working on reform including China.

Given that 80% of bills of lading operate under English law, the UK Electronic Trade Documents Bill presents a unique opportunity to accelerate reforms and act as a model to support low to middle income countries, particularly across the Commonwealth.

● ICC Digital Standards Initiative (DSI)

The Legal Reform Advisory Board at the DSI is leading the global campaign to reform laws and align legal systems to the MLETR framework. Its goals by the end of 2022 are to have 100 countries committed to law reform, to double the number of countries undertaking legislative reform, to launch 10 funded legal assistance projects for low to middle income countries and to publish a global monitoring framework to promote transparency.

● Business case for legal reform

ICC and the Commonwealth have published business cases covering 60 economies large and small across multiple geographies. The combined economic benefits are clear:

- \$10 trillion in trade and export growth
- 80% cut in trade transaction costs
- 50% reduction in the trade finance gap
- Cross border compliance processing times slashed from 25 days to 1 day.

Across The Commonwealth, digitalising commercial trade documents will deliver \$1.2 trillion in trade growth. If combined with customs digitalisation, this figure rises to \$2 trillion, twice the intra-Commonwealth trade target. The evidence shows that the primary beneficiaries of legal reform are small economies and MSMEs for whom trade costs can sometimes be more than the value of trade and who feel the burden of paper and inefficiency the most.

● **Centre for Digital Trade and Innovation (C4DTI)**

C4DTI is an ICC United Kingdom-led, global initiative based in the Tees Valley in the North East of England. C4DTI is a public-private partnership led by industry and supported by government. Its core mission is to accelerate the digitalisation of UK trade and implement global legal, standards and rules frameworks provided by the ICC Digital Standards Initiative.



C4DTI is impartial and technology agnostic in approach with the capability to engage industry of all sizes and sectors, identify and remove policy barriers, deliver training on digital standards adoption and pilot cross border solutions to help drive innovation, technology solutions and standards adoption at scale across the whole trading ecosystem.

September 2022



Chris Southworth
Secretary General
ICC United Kingdom

Chris Southworth is Secretary General at the ICC United Kingdom. Prior to joining ICC he was Executive Director for Global Partnerships, at the British Chambers of Commerce (BCC), Head of the International Chambers of Commerce Unit at UK Trade and Investment (UKTI) and a Senior Policy Advisor to Lord Heseltine for his independent review of UK competitiveness. In 2011 he helped set up the mid-size business export programme at UKTI and was a Senior Policy Advisor for the 2011 Government Review of Mid-Size Businesses. Former roles have encompassed deregulatory policy at Better Regulation Executive, social enterprise policy at the Department for Business and stints in a local strategic partnership and the charity sector.



Nick Davies
Director, C4DTI

After a 30-year-plus career in HMRC, latterly as an Innovation Lead looking at the application of new and emerging technology in tax administration, Nick was recently appointed as the Director of the ICC Centre for Digital Trade & Innovation. A firm believer in the power of tech to transform the way we do trade and ensure it is a driver of sustainability, he is keen to enable collaboration across all business types sectors and countries to put the UK at the forefront of developing new digital capabilities in international trade.



The Taskforce

The Taskforce has been established by the ICC Centre for Digital Trade and Innovation (C4DTI) in partnership with the Centre for Applied Sustainable Transition Law (CASTL) to provide technical assistance and capacity building support to help low to middle-income countries to digitalise commercial trade documents and align legal systems to MLETR. It is a UK-led initiative operating in conjunction with the Legal Reform Advisory Board at the ICC Digital Standards Initiative (DSI) to help ensure all governments have the support they need to undertake necessary legal reform. This is a vital first step towards delivering a modern digital trade environment and pre-requisite to running cross border pilots and establishing modern trade corridors. Assistance will be offered to governments requesting support.

● CASTL

The CASTL will implement the legal reform technical assistance offered by the Taskforce, it will work with the governments, stakeholders, lawyers and experts to ensure that the work is of the highest quality.

The CASTL's vision is for law to be regarded as an enabler of sustainability and just transformation in all areas. The adoption of laws to enable the transition to digital trade is one practical example, which also fulfils several Sustainable Development Goals. The CASTL's approach is based on applied research, interdisciplinary collaboration and reliance on its extended network of experts across sectors and industries. The Taskforce will also benefit from the input of the CASTL's Advisory Board members.

● CASTL advisory board

- Dr Adesegun A Akin-Olugbade
- Professor Mads Andenas KC (Hon)
- Sir William Blair KC
- Professor Deborah Burand
- Mr John Chown
- Professor Sir Ross Cranston KC
- Sir Roy Goode KC
- Mr Whitman E Knapp
- Professor Michael Mainelli
- Sir Bernard Rix KC
- Mr Philip Wood CBE KC (Hon)

● Taskforce services

Taskforce members will work with governments and local stakeholders to:

1. Share best practice and lessons learnt from legal reform programmes worldwide including the application of the ICC Guide to Legal Reform.
2. Help ensure stakeholder engagement is effective in supporting legislation including introductions to key actors in the system.
3. Identify barriers to handling commercial trade documents in digital form within existing law.
4. Provide a roadmap for law reform including international best practice where laws have been used in other countries.
5. Provide capacity building support to enable in-country stakeholders to see through the reform process including use of the ICC Guide to Legal Reform and connectivity to international experts and institutions.
6. Provide recommendations for reform, including where needed drafting assistance to give legal recognition to electronic documents and align laws to MLETR.
7. Support the uniform implementation of legal, standards and rules frameworks for the digitalisation of commercial trade documents including market preparation, cross border pilots and the application of technology solutions.

● CASTL directors



Professor John L Taylor

Director, CASTL

John Taylor is a lawyer (qualified in Australia and admitted to the DC Bar) with more than 50 years of global experience mainly in financial services and law firms. Drawing on his diverse global corporate and finance experience, in addition to his writing and academic pursuits, John is a consultant on international law, finance and corporate governance and is an active member of global finance and law related associations, including the Bankers Association for Finance and Trade. He has held managerial and senior executive

positions at the World Bank and in several private sector international finance and other companies, was a General Counsel of EBRD, and a lawyer at the Asian Development Bank and at major law firms in Australia, the UK and the USA. One of his achievements was the establishment of EBRD's innovative Legal Transition Team that, for more than 26 years, has provided valuable law reform advisory services for many of EBRD's member countries. In the past few years, he has actively participated in the creation of a digital payment instrument and other digital initiatives for use in international trade transactions. John is a co-founder of CASTL.

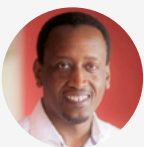


Dr Theodora A Christou

Director, CASTL

Theodora Christou is a lawyer called to the Bar at The Honourable Society of Lincoln's Inn. She has provided consultancy services globally. She has produced comparative research reports for the European Commission evaluating either the need for additional EU law or providing models and best practices for the development of new procedures and institutions. She has provided both oral and written evidence to UK, EU and international legislative consultations and inquiries. Her work has instructed policy and legal reform in a range of areas including financial and economic crimes, technology, human rights,

and sustainability. At the British Institute of International and Comparative Law she worked on several practical and applied legal projects including the Commonwealth Legal Advisory Service (with membership of the Attorney-General Offices) and Legal Tools for Commonwealth Africa (across 13 Sub-Saharan Commonwealth countries). She convenes modules in Transnational Law and Governance at Queen Mary University of London and International Human Rights Law at the London School of Economics. Her capacity building extends to training individuals on the practical application of the law, including on proposals for legal reform. Theodora is a co-founder of CASTL.

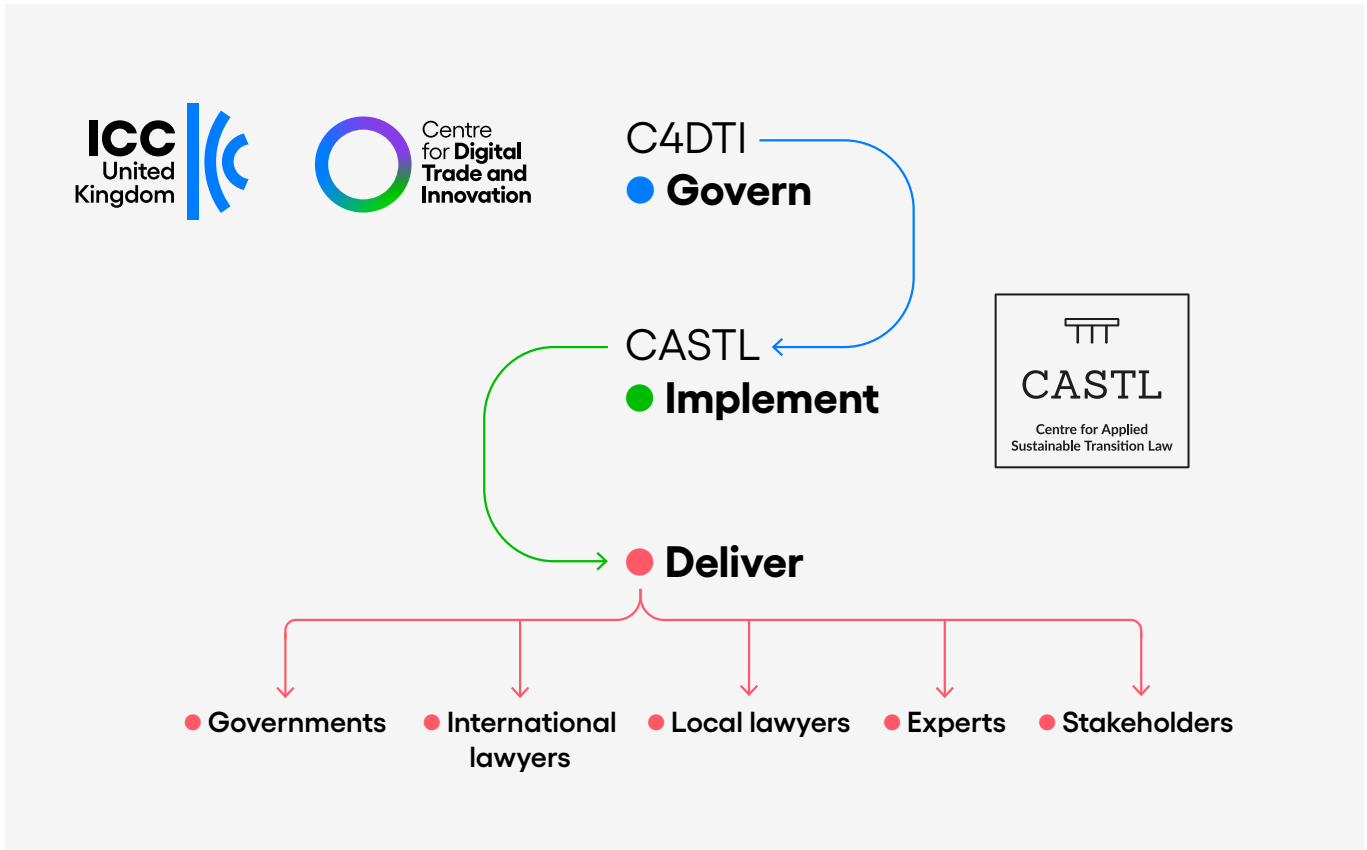


Dr Tedd M Mose

Director, CASTL

Tedd Mose is a Common Law qualified lawyer (Kenya) with significant experience in transactional, advisory, strategy, and dispute resolution. His work also involves practical aspects of law, policy and regulation in energy, environment and natural resources, climate change, corporate and commercial law, innovation & technology, trade, and sustainable finance. He is currently a Researcher and Fellow at the University of Oxford focused on the role of law in mitigating climate change through the transition to a low-carbon

economy. Tedd is consulted by a diverse range of public and private actors; ranging from multi-nationals to start-ups. He undertook his PhD at Queen Mary University of London (QMUL) and has taught and held various multi-disciplinary research positions at QMUL, the University of St Andrews, Scotland; the University of Cape Town, South Africa; the University of Michigan, USA; and at the Centre for Energy, Petroleum and Mineral Law and Policy at University of Dundee, Scotland. He is a board member and strategist in technology ventures in sub-Saharan Africa including on digital trade. Tedd is a co-founder of CASTL.



● Taskforce operation

The technical assistance will be delivered in conjunction with the requesting Government, by international and local lawyers and experts engaged on an individual basis for each country. The Taskforce will also engage with international and local stakeholders. Experts and lawyers will deliver the technical assistance or be available to assist in delivery by offering their expertise when consulted. The Taskforce will work with local stakeholders to shape projects to local needs.

For further information

For further information and to request technical assistance, contact us at secretarygeneral@iccwbo.uk

ICC United Kingdom is the representative voice for ICC in the UK and provides a mechanism for UK industry to engage effectively in shaping international policy, standards and rules.

We are the leading voice on digital trade ecosystems, act as the ICC representative to the Commonwealth and Co-Chair the Legal Reform Advisory Board at the ICC Digital Standards Initiative.

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