

CLOSING SPEECH BY MR S ISWARAN, MINISTER FOR COMMUNICATIONS AND INFORMATION, AT THE SECOND READING OF THE ELECTRONIC TRANSACTIONS (AMENDMENT) BILL ON 1 FEBRUARY 2021

Introduction

Thank you, Mr Speaker.

- a. I would like to begin by thanking all members who have spoken on the Bill for their support of this Bill. It has been my experience that any laws, policies and programmes on digitalisation never fail to illicit very wide-ranging views and suggestions, all given with the best of intentions. I hope members will understand if I confine my response to the issues to this particular bill and some of the immediate adjacencies. I would also like to assure them that some of the other areas will be looked into by the respective agencies.
- b. I want to start by agreeing fully with all members that the fact that digitalisation, and indeed this bill, are all but enablers. They are means to an end, and ultimately, it is how these enablers help to improve the lives of our citizens, and create opportunities for our businesses. That is the ultimate lens through which we should be looking at this, and many of the other initiatives. And I want to thank members for their various questions and comments on the key issues that this Bill seeks to address. I think in particular, if I were to condense it, the views fall into two broad themes, namely:
 - i. What are we doing to ensure that businesses digitalise in a sustainable and effective manner; and
 - ii. What are we doing to enhance and protect consumers' quality of experience related to electronic transactions?

(A) Businesses

Let me endeavour to address each in turn. First, on sustainable digitalisation for businesses.

1. *Cost impact to businesses associated with the changes to the ETA*

- a. Some members have asked about the cost impact to businesses arising from the proposed amendments. Beyond replacing paper documents with ETRs, businesses that wish to unlock the full potential of digital solutions will have to invest resources into reviewing their existing operations, IT and digital infrastructures and systems, and their business processes.
- b. As members have noted, today's predominantly paper-based trading environment does incur inefficiencies and delay, because the time required to process paper documents may far exceed, in some instances, that needed to physically move the goods. To give some sense of proportion, according to research done by Maersk and IBM, and as highlighted by Mr Don Wee, the cost of processing trade documents could cost as much as 20% of the physical transportation cost of a shipment of goods¹, which is quite staggering if you think about it.

¹ Source: The Wall Street Journal- 'Maersk and IBM Partner on Blockchain for Global Trade', Jan 2018.

- c. So, ETRs such as electronic bills of lading, can yield significant cost savings across the entire value chain. Although as Ms Janet Ang highlighted, there may be a transition period when businesses have to work with both electronic and paper-based bills of lading, because their business partners may not be ready to adopt electronic bills of lading, the overall long-term benefits and competitive advantages remain compelling.
- d. Ultimately, individual businesses must weigh the costs and benefits for themselves. The proposed amendments to the ETA do not mandate the use of ETRs, but they are an important enabler that confers greater certainty to the business environment. The new section 16D provides that both parties must consent to the use of ETR and, therefore, businesses are free to choose.

2. *Interoperability with the global trade ecosystem*

- a. Mr Louis Ng asked how the amendments will ensure that Singapore continues to be interoperable with the global trade ecosystem, especially when many countries have yet to adopt the use of ETRs widely.
- b. Sir, the MLETR is an internationally harmonised legal framework for adoption by all countries. Its text was formulated at the UNCITRAL Working Group meetings, attended by delegates who represented the views and interests of countries from all over the world. As a model law, the MLETR text provides a suggested framework for lawmakers in national Governments to consider adopting as part of their domestic legislation. In the long run, as countries move forward to adopt the MLETR, these amendments will naturally confer a certain degree of international harmonisation with other jurisdictions.
- c. But not every country will be ready to enact the MLETR in the near future. Hence, the new sections 16M and 16N contain substantive provisions that enable the change of medium from an ETR to a physical transferable document or instrument and vice versa. This enables parties to decide to use an ETR with the assurance that the ETR can be converted to a physical transferable document or instrument at some later stage in the life cycle, and can be converted back to an ETR, if needed.
- d. We have also been working on Digital Economy Agreements which are digital analogues of Free Trade Agreements. Through these agreements, we hope to foster the global adoption of the MLETR, and encourage the global trade industry to use ETRs with confidence via a common legal framework. Members will recall that we signed two such Digital Economy Agreements last year, one with Australia,² and another with Chile and New Zealand.³ We are in the early stages of discussions with other countries as well. This will be another part of our effort to promote the adoption of MLETR, thereby realising the network benefits that many members have mentioned.

² Singapore-Australia Digital Economy Agreement (SADEA).

³ Digital Economy Partnership Agreement (DEPA) with Chile and New Zealand.

3. Encouraging industry to adopt ETRs solutions

- a. Mr Zhulkarnain asked about our efforts to encourage industry to adopt ETR solutions. Apart from legal reforms, Singapore is actively working with our industry and international partners to develop the digital trade ecosystem.
- b. One such example is IMDA's TradeTrust, a digital utility that comprises globally accepted standards and frameworks that connects Governments and businesses to a neutral and public blockchain. In doing so, it enables interoperability across digital platforms so that electronic trade documents can be exchanged in a trusted fashion while ensuring document authenticity, proof of provenance and transfers of title for ETRs.
- c. We have made good progress in the development of TradeTrust since the signing of our partnership with the International Chamber of Commerce and 17 major corporations such as MasterCard, PSA International and Standard Chartered at Davos last year. Our collaboration with the Port of Rotterdam culminated in the successful technical Proof of Concept where transfers of title for electronic bills of lading were achieved between two standalone solutions on the TradeTrust framework. This goes to the point that Mr Louis Ng raised about how we are promoting the use of such technology.
- d. I would like to thank Mr Jamus Lim and Ms Janet Ang for their suggestions to support SMEs to digitalise. We agree fully. It is important to note that SMEs will stand to benefit from TradeTrust, in fact, in some ways, perhaps even more so and not just the large organisations.
 - i. The TradeTrust software is distributed for free under open source licensing terms. This is a good starting point for tech firms in the business of providing products or services around ETRs, while enabling them to be interoperable without additional cost.
 - ii. Businesses of all sizes throughout the entire value chain involved in cross-border trade, stand to benefit from TradeTrust, as electronic trade documents including ETRs can be transferred in a seamless and secure manner.
- e. Additionally, IMDA partners Trade Associations & Chambers in reaching out to SMEs through webinars and industry events, to help SMEs better understand the benefits of digitalisation as well as the different Government support that is available. IMDA's SME Digital Tech Hub provides specialist digital technology advisory to SMEs that have advanced digital needs such as data analytics and cybersecurity.
- f. Mr Jamus Lim asked how this syncs with the broader effort by MTI in terms of promoting the adoption of such technologies by SMEs. Broadly speaking, we have a digitalisation effort which all government agencies - in particular our economic agencies are working on - this is an effort that we undertake in partnership with industry partners, Trade Associations & Chambers, and international partners. In doing this, our objective is to not just pursue technology for the sake of technology, but to ensure that it is assessed through the eyes of industry to ensure that there is value, because as we have all agreed, that is the ultimate objective – that it derives benefit and it is a means to an end. It is not so much about picking

platforms or picking technologies, but it is about ensuring that our system remains open and interoperable, allowing for the fact that technology may evolve all the time, and therefore we need the dexterity in our system that allows that compatibility across current and new technologies, and indeed current technologies that may be co-existing.

4. Safeguards against risks and frauds for ETRs

- a. Ms Joan Pereira and Ms Tin Pei Ling asked about the issue of the sufficiency of safeguards for ETRs and digital transactions, and how the Government will ensure the integrity and authenticity of these newer forms of electronic transferable documents or instruments.
- b. There are legal safeguards in place for the creation and use of ETRs.
 - i. As I mentioned before, the new sections 16F to 16I set out specific requirements that an electronic record must meet in order to be recognised under the ETA as being functional equivalent of a paper transferable document or instrument. Mr Don Wee would be glad to know that these provisions collectively serve to prevent the unauthorised replication of an ETR by an ETR management system.
 - ii. The new section 16O which sets out a general reliability standard for the assessment of the reliable methods used to give effect to the requirements in new Part IIA, also includes factors such as the “assurance of data integrity” and “the security of hardware and software”.
- c. In terms of technological safeguards, there have been significant advancements which enable us to transact in an even more secure and seamless manner. Distributed ledger technology, smart contracts, and biometrics are just some examples of the rapidly evolving areas. These technologies, along with transparent electronic audit trails, will help prevent the tampering of data by third parties.
- d. We must all do our part to acquire the skills to protect our digital resources from cybersecurity risks. The Government is committed to the security and resilience of Singapore’s cyberspace and protecting our critical information infrastructure.
- e. Businesses must also play their part to create a cyber secure environment for their business and customers. CSA launched the Safer Cyberspace Masterplan, which lays out the detailed steps that organisations can take to protect themselves from cyber risks. As they introduce ETR solutions, business owners should review their cyber risk assessments, because the digital footprint grows in tandem, and they must implement proactive measures to protect their businesses.

5. Clarifying the legal position on electronic signatures

- a. Mr Don Wee asked for clarifications with regard to the circumstances in which electronic signatures may be used, and Ms Janet Ang provided suggestions to facilitate use of electronic signatures.

Essentially, the ETA today allows electronic signatures to be used in place of physical signatures, but this does not cover matters under the Exclusion List,

including transferable documents or instruments. With the new section 16G, it is now possible to rely on the ETA to legally recognise electronic signatures for transferable documents or instruments. For Excluded Matters, it may still be possible to use electronic signatures in circumstances permitted under the common law, and I would advise parties to consult their lawyers for guidance on this.

- b. Mr Louis Ng spoke about signing deeds electronically. Currently, the formalities for executing a deed depend on whether there are requirements prescribed in the legislation governing the subject matter of the deed. Where the legislation is silent, then a deed must be executed according to the principles established at common law. In other words, it must be sealed and delivered. We understand that deeds are also commonly witnessed in practice. Such formalities are safeguards developed over time to provide a measure of reliability and security. It is necessary to consider whether and what safeguards are needed if in fact, we want to migrate these deeds to the electronic domain, in other words, to digitalise them. This is an area of work that Ministry of Law and other relevant Ministries are studying.

(B) Citizens

I want to now address the issues pertaining to consumers' quality of experience related to electronic transactions.

6. *Benefits of the amendments for individuals.*

- a. I have shared how the Bill will enable the use of ETRs such as electronic bills of lading, to reduce the cost of shipping, streamline workflows, resulting in a more efficient global logistics network. While the direct benefits of the amendments primarily impact businesses, individuals could ultimately enjoy lower prices of imported goods as a result of the reductions in transaction costs associated with faster documentation processing, transportation and trade financing processes.
- b. Ms Tin Pei Ling and Mr Zhulkarnain asked about future plans to digitalise other transactions. Looking ahead, the Government is studying the feasibility of progressively removing the remaining documents and instruments from the Exclusion List, and it will be guided by the benefits that will accrue to citizens, if they are made available in the electronic form, whilst keeping a keen eye on the safeguards that are necessary. Where an item is feasible for digitalisation, the Government will work towards the implementation of the necessary legislative and regulatory frameworks and corresponding safeguards. To Mr Zhulkarnain's specific point, we do not have a specific estimated time of arrival for the Electronic Transactions Act's exclusion list to be reduced or removed completely, but as a general move, as part of the Government's larger effort, we are seeking to remove as many of these exclusions as possible by 2023.
- c. The progressive removal of items from the Exclusion List will send a strong signal that Singapore remains committed to be a leading digital economy, and a secure and trusted hub for e-commerce and other forms of electronic transactions. It will also reinforce the Government's wider digitalisation effort, and facilitate the achievement of the Digital Government Blueprint to provide end-to-end digital options for most Government services.

- d. For example, MSF's forthcoming Mental Capacity (Amendment) Bill will introduce, among other things, a framework to enable and safeguard the creation and registration of electronic lasting powers of attorney, or **LPAs**. Currently, only hard copies of LPAs are accepted. Excluding the mandatory three-week waiting period, as some members have observed, digitalising LPAs could cut the time needed to register LPAs from an average of three weeks to about eight working days.
 - i. I thank Mr Louis Ng, Ms Joan Pereira, Mr Don Wee, and Mr Yip Hon Weng for their suggestions and queries related to the upcoming plans to digitalise LPAs. MSF, as the domain Ministry, will partner other Government agencies and community touchpoints to assist those who are less digitally. MSF will also engage the relevant professional groups to ensure effective implementation of the electronic LPA. In general, with all the domains and where all the specific documents are concerned, the Ministries will undertake consultations with stakeholders and ensure that even as we seek to realise the benefits of digitalisation, appropriate safeguards are put in place to foster the trust that is pivotal to the success of these moves.

7. *Protecting individuals as we step up our digitalisation efforts.*

- a. As we step up our digitalisation efforts, it is also understandable that there will naturally be concerns about the new types of risks and fraud in going digital. This is by no means unique to the digital domain. We know that fraud and other risks exist even in the physical domain.
- b. Transferable documents or instruments, such as bills of lading, are largely for commercial use. I have already covered in quite some detail the legal and technological safeguards which will protect businesses and strengthen trust in the use of ETRs. These apply to safeguards for individuals as well.
- c. We do recognise that documents or instruments are used differently depending on the specific context and use cases, which means safeguards will need to be calibrated or tailored to the situation as well. MCI, IMDA and sector agencies are therefore adopting a phased approach, where items from the Exclusion List will be removed only when the relevant supporting legislative and regulatory frameworks and corresponding safeguards are in place. This approach will (a) provide clarity to businesses and individuals on requirements needed to use such documents electronically, and (b) ensure adequate safeguards are put in place to protect the vulnerable and less digital savvy.

8. *Consumer welfare and protection - flexibility of options and digital readiness.*

- a. I agree with Ms Joan Pereira on the importance of ensuring that our less digitally comfortable citizens do not inadvertently experience greater inconvenience as we step up our digitalisation efforts. My colleagues and I at MCI accord utmost importance to digital inclusivity.
 - i. That is why the ETA does not, for a start, mandate the use of electronic documents or the electronic medium for transactions. Instead, the ETA enables electronic transactions as an additional option, and provides a clear legal framework to recognise and support these transactions. As such, the

- ETA does not remove individuals' option to receive communications and to transact through non-electronic means.
- ii. Similarly, businesses are free to weigh the costs and benefits and decide for themselves if they wish to invest in adopting ETR solutions. The new section 16D specifically provides that both contracting parties must consent to the use of ETRs. Currently section 5 of the ETA already provides for party autonomy and makes clear that the use of electronic forms of documents or instruments is not compulsory. So again, at the business level, there is flexibility.
 - iii. While providing the flexibility of options to businesses and individuals is important, we need to also ensure that Singaporeans keep pace with technology, not just for economic reasons or for the sake of technology itself, but to enhance their quality of life and to fully derive the benefits that can be realised through the use of technology. Hence, we have taken additional steps to ensure that companies and individuals have the knowledge and skills to embrace digitalisation. I can give you a long list, but suffice to illustrate one or two, for example, the Digital Resilience Bonus which is aimed at the Retail and Food Services sectors, and our more recent SG Digital Office Community Hub which ensures that we reach out to segments of Singaporeans who may require more support in their digitalisation journey.

Conclusion

- a. Mr Speaker, I believe I have substantially covered the points which members have raised. I would like to thank them once again for their insightful comments. In conclusion, since the ETA was last amended in 2010, we have made significant strides in our digitalisation journey, bringing significant benefits to businesses and citizens. However, the landscape is everchanging and we need to be agile to adopt new technologies, and to respond to changing circumstances.
- b. This Bill is an important step for the digitalisation of our trade sector. It ensures that our laws continue to facilitate businesses' use of new technologies while ensuring that we remain interoperable with the global trade economy, reinforcing Singapore's status as a maritime and financial hub.
- c. Today's Bill largely addresses the trade sector, but there are many other sectors that can benefit greatly from digitalisation. The Government will progressively review these other sectors, focused and guided by the benefits they bring to our people and businesses, the safeguards that are necessary to preserve trust, and ultimately, to secure Singapore's secure competitive position in the global digital economy.
- d. Mr Speaker Sir, I beg to move.