

## **Facilitating Cross-border Trade and Commerce through Mutual Recognition of Digital Signatures / Certifying Authorities**

Technology has enabled us not only to replace Paper based documents with digital ones, but also to authenticate digital documents, just like authentication of paper based documents. Digital Documents provide various benefits like easier storage, copying, transmission, automated search, etc., apart from being environment friendly.

As there is an accelerating trend towards replacement of Paper Documents with Digital Documents, the use of Digital Signatures may grow exponentially in the years to come. Many of the AFACT countries have already implemented IT Act/Electronic Signature Act, modelled on UNCITRAL's model law and have provided legal validity to Digitally signed documents at par with manually signed paper documents. There is no doubt that Digital Signatures can play a huge role in facilitating International Trade and Commerce in the years to come.

Digital Signatures are based on asymmetric key crypto-systems, in which Private Key (available only to the signer) is used to sign the document, while Public Key which is available to all, is used to verify.

Most of the countries provide legal validity to Digital signed documents which are signed using a private key (possessed by the signer) whose corresponding Public Key has been certified by a Recognized Certifying Authority. Recognized Certifying Authorities are generally licensed by a Government Regulator of the country.

The above system causes certain inconveniences as a Certifying Authority recognized in one country may not be recognized in others and hence the Digital Signatures Certificates issued by that Certifying Authority may not be recognized in other countries causing inconvenience to the users, particularly to those users who are involved in International Trade and Commerce.

To overcome such issues, it is necessary to establish a system which provides for mutual recognition Certifying Authorities so that the Digital Signature Certificates issued by Recognized Foreign Certifying Authorities are also accepted along with Digital Signature Certificates issued by domestic Certifying Authorities.

The Controller of Certifying Authorities, which is the regulator and facilitator of PKI environment in India, is currently working towards notifying regulations for recognition of foreign Certifying Authorities. The notifications will enable recognition of Foreign Certifying Authorities, subject to various conditions specified in the regulations.

The Regulations will include provisions for recognition of Foreign Certifying Authorities, which operate under a national regulator like in India's CCA and also for those Certifying Authorities which do not operate in a country where such regulator is not present.

It is proposed that a Digital Signature Certificate issued by a Foreign Certifying Authority, which has been authorized to issue Digital Signature Certificates by a legally recognized regulatory authority of its country, will be recognized in India, if the Controller of Certifying Authorities enters into a memorandum of understanding with the recognized foreign regulatory authority.

Before entering into a Memorandum of Understanding , the Controller will ensure that the laws of the country under which such regulatory authority is established , require a level of reliability at least equivalent to that required for issuance of a Digital Signature Certificate under the IT Act of India ,2000.

We look forward to enter in MoUs with PKI Regulators from various countries for mutual recognition of Certifying Authorities.The details of Regulations in this regard will be available soon.

While such mutual recognition is important in facilitating International Trade and Commerce , it is also important to look into the issues of mutually acceptable Inter-operability Guidelines,security and audit criteria. However,in case countries whose IT Act/Electronic Signature Act is based on Model UNCITRAL Laws have some commonalities which will help in evolving such Guidelines.

We sincerely believe that the current PKI environments of AFACT will continue to grow further and a strong tradition of mutual recognition and collaboration will be established , which will benefit all countries and peoples of the region.

It is ,therefore, proposed that every member/country may create environment for mutual recognition of Digitally Signed Documents / Certifying Authorities.

India is willing to facilitate this process on receipt of Expression of Interest.