

UNDA project

## TRANSPORT AND TRADE CONNECTIVITY IN THE AGE OF PANDEMICS

UN solutions for contactless, seamless and  
collaborative transport and trade

Project closing event, 20-23 June 2022

Implications of the COVID-19  
pandemic for commercial contracts  
covering the transportation of goods in  
the Asia-Pacific region and beyond

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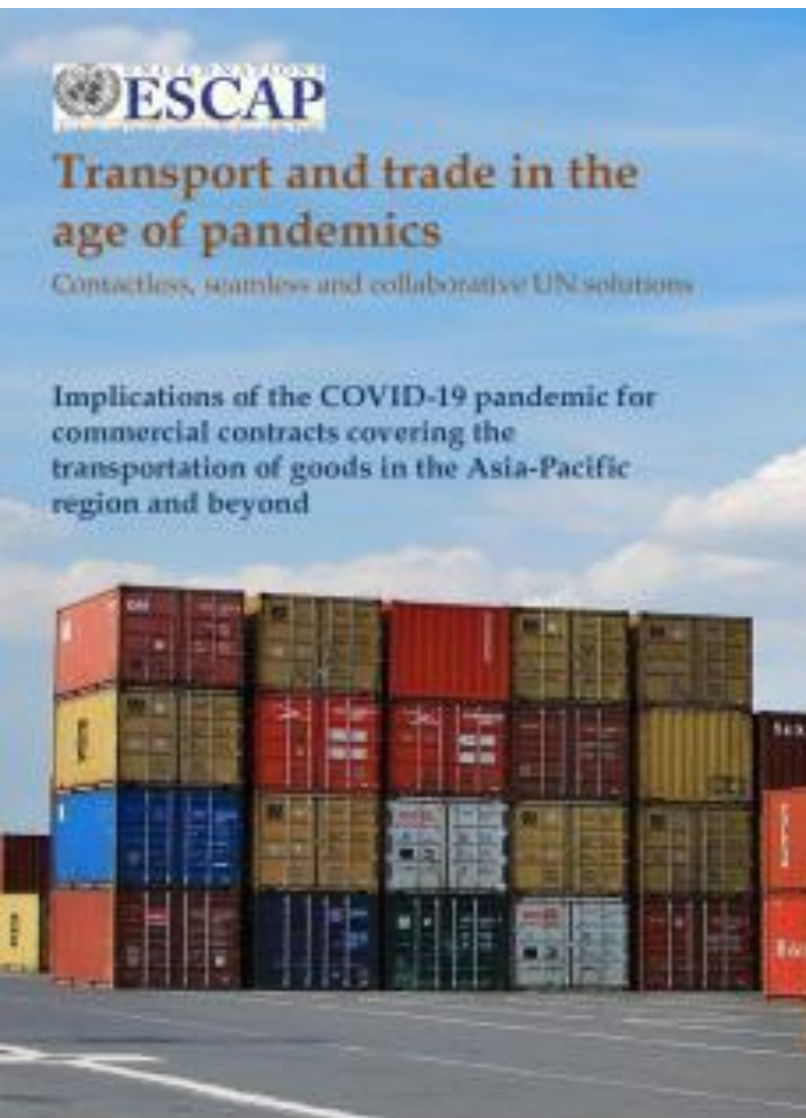
## Project Cluster B: "Seamless" (ESCAP's activities)

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- Research and analysis of challenges arising from the COVID-19 crisis in respect of contracts for international carriage of goods, focusing particularly on land and multimodal transport and summarize findings in a technical paper (in progress)
- Identification of critical issues (including applicability of force-majeure clauses and other) with a view to develop recommendations that could be used by governments in developing related national, bilateral or multilateral policies, as well as by the transport industry in their operations
- Facilitation of delivery of expert legal analysis, advice and technical guidance to policymakers at national, regional and international levels, as well as SME traders, shippers, and consignees, particularly in developing countries to assist them in addressing some of the key commercial law implications of the COVID-19



## ESCAP analytical paper on Implications of the Covid-19 Pandemic on the Commercial Contracts Covering Transportation of Goods in the Asia-Pacific Region and beyond



- Presented at the Policy segment on the Impact of Pandemics on Contractual Relationship and Multimodal Transport organized back-to-back with the 4<sup>th</sup> Meeting of the Working Group on Dry Ports (3 June 2021)
- Published on 23 June 2021 at UNESCAP's website
- Full text can be found under the link: <https://www.unescap.org/kp/2021/implications-covid-19-pandemic-commercial-contracts-covering-transportation-goods-asia#>



# ESCAP analytical paper on Implications of the Covid-19 Pandemic on the Commercial Contracts Covering Transportation of Goods in the Asia-Pacific Region and beyond

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## Purpose:

- increase awareness of Government officials and transport operators in Asia and the Pacific region on the ways of addressing some of the key legal implications of COVID-19 for commercial contracts covering transport of goods
- assist shippers and consignees, particularly in developing countries in
- provide a summary of research and preliminary analysis of the challenges arising from the COVID-19 crisis
- identify critical issues (including applicability of force-majeure clauses)
- suggest several practical recommendations on contractual policy that could be used by transport industry stakeholders in their operations to better cope with the emerged challenges



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## Content:

- Government reaction: COVID-19 specific legislation case studies (China, India, Singapore, UK)
- The Force majeure concept (in international legal instruments, trade rules, civil and common law)
- Force majeure contractual clauses
- Legal and tax implications for invoking force majeure
- Contractual remedies in the absence of force majeure contractual clause and other legal doctrines that excuse non-performance (frustration, hardship etc.)



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## Practical recommendations for the industry

*The following three scenarios were proposed for consideration:*

- entering into a new agreement and needs to provide a force *majeure* clause adequate for the current conditions of the ongoing pandemic;
- invoking *force majeure* contractual protection under the earlier agreement;
- invoking protection other than the *force majeure* clause to absolve it from the contractual delay or performance failure.

# THANK YOU

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