

Expert Meeting on

CYBERLAWS AND REGULATIONS FOR ENHANCING E-COMMERCE:
INCLUDING CASE STUDIES AND LESSONS LEARNED

25-27 March 2015

Global E-commerce and Cyberlaw Developments

By

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GLOBAL E-COMMERCE AND CYBERLAW DEVELOPMENTS

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Implications of E-commerce

- Access global value chains
- Access to markets/exports
- Access to suppliers/imports
- Higher productivity
- More competition
- Greater consumer choice
- Job creation
- Risk of fraud
- Costs of adaptation
- Risk of crowding out
- Risk of losing tax revenue
- Risk of job losses
- Risk of widening divides





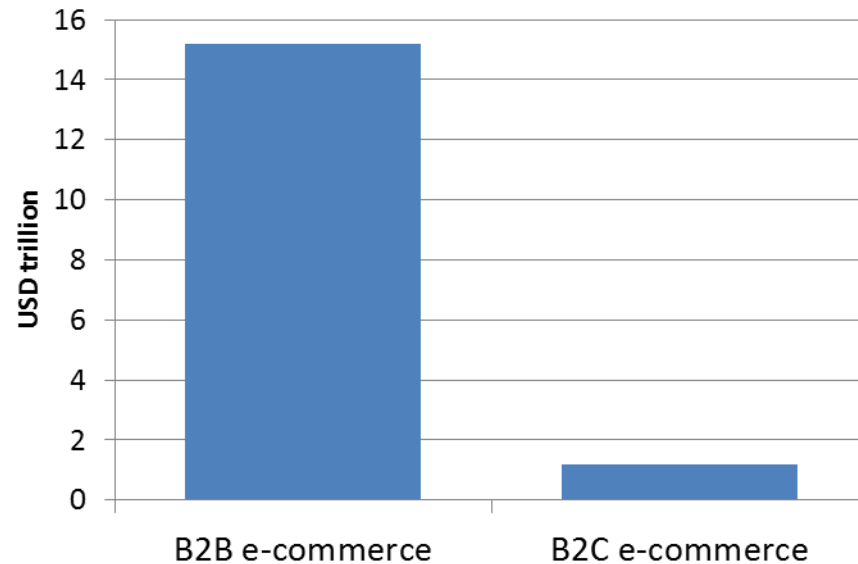
Different e-commerce transactions

- Business-to-business (B2B)
 - Online sales between enterprises, including as a result of outsourcing and offshoring. Small enterprises may need to engage in B2B e-commerce to participate in value chains.
- Business-to-consumer (B2C)
 - Involves sales by "pure play" e-commerce enterprises and by traditional bricks-and-mortar firms adding online sales channel.
- Consumer-to-consumer (C2C): e.g. eBay and Taobao
- Government-to-business (G2B): e.g. e-procurement



B2B revenues by far the largest

Global B2B and B2C global revenues, 2012-13



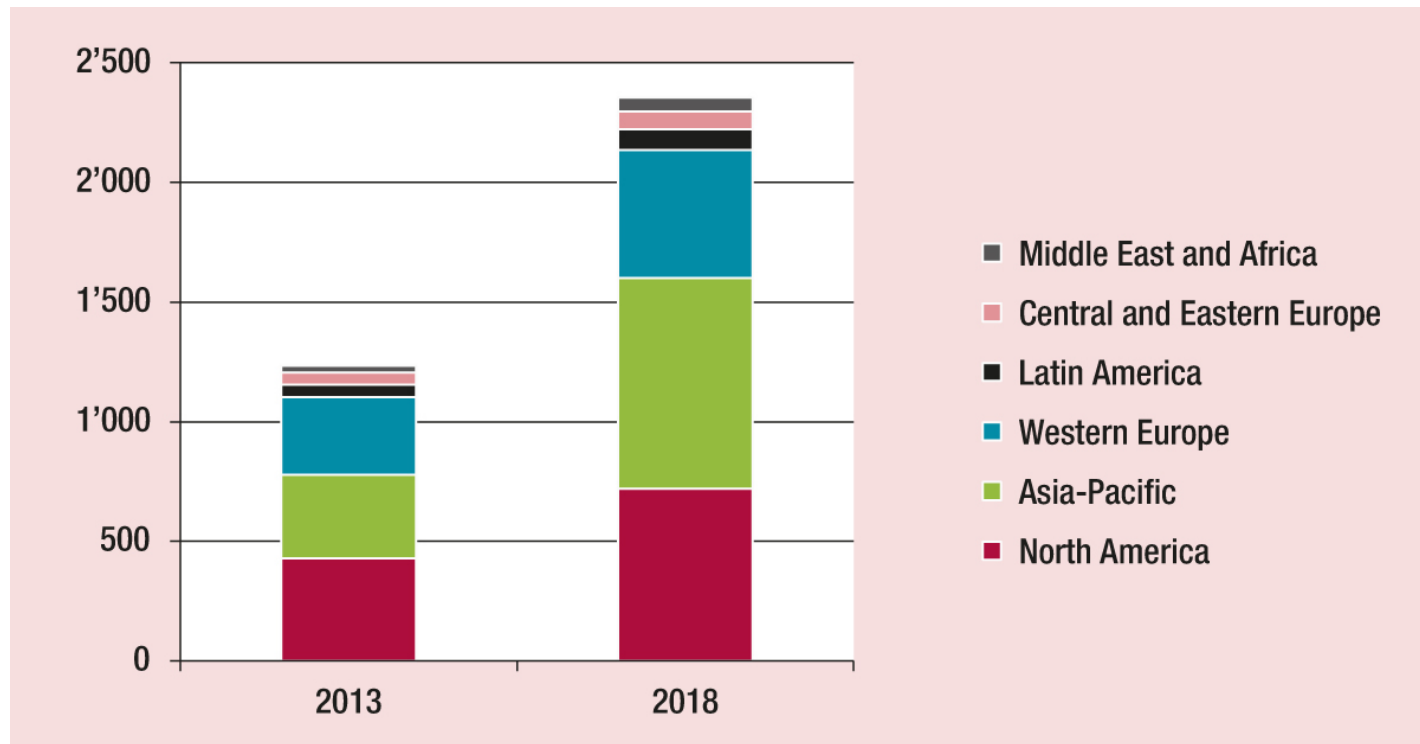
Source: UNCTAD estimates based on national sources, eMarketer, and others.

- Share of B2B in e-commerce revenue
 - US: 89%
 - Canada: 64%
 - EU: 87%
 - Rep. of Korea: 91%
 - Russia: 57%



B2C e-commerce growing fast *especially in developing countries*

B2C e-commerce sales, by region, 2013 and 2018 (\$ billions)



Source: eMarketer, July 2014.



Wider scope for inclusive e-commerce

- ❑ Improved connectivity in developing countries
 - Mobile telephony, Internet use and social media
- ❑ Reduced barriers to entry
 - New e-commerce applications and platforms
 - New e-commerce services
 - New payment solutions
- ❑ Rise of many new e-commerce companies in the South





Barriers to E-commerce

- Economic barriers
 - Inadequate ICT infrastructure and power supply
 - Limited use of credit cards and under-developed financial systems
 - Lack of purchasing power
- Socio-political barriers
 - **Weak legal and regulatory frameworks**
 - Cultural preferences for face-to-face interaction
 - Reliance on cash in society.
- Cognitive obstacles
 - Poor ICT literacy
 - Lack of awareness and knowledge of e-commerce



Payment methods for e-commerce

E-transactions value, by payment method, by region, 2012 (percent)

- Credit cards dominate at global level
- New methods growing in importance
- In Africa, cash on delivery is most used, while mobile payment is increasing

Region	Credit cards	E-wallets	Direct debit	Cash on delivery	Bank transfer	Other
United States and Canada	71	18	2	1	1	7
Europe	59	13	5	5	8	11
Latin America	47	10	4	8	13	18
Africa and Middle East	34	5	0	48	3	10
Asia and Oceania	37	23	1	11	14	14
World	57	17	2	5	7	12

Source: WorldPay 2014.



Share of economies with e-commerce laws, 2014, by region

	Countries (number)	E- transaction laws (%)	Consumer protection laws (%)	Privacy and data protection laws (%)	Cybercrime laws (%)
Developed economies	42	97.6	85.7	97.6	83.3
Africa	54	46.3	33.3	38.9	40.7
Asia and Oceania	48	72.9	37.5	29.2	56.3
Latin America and the Caribbean	33	81.8	54.5	48.5	63.6
Transition economies	17	100.0	11.8	88.2	70.6
All economies	194	74.7	47.4	55.2	60.3

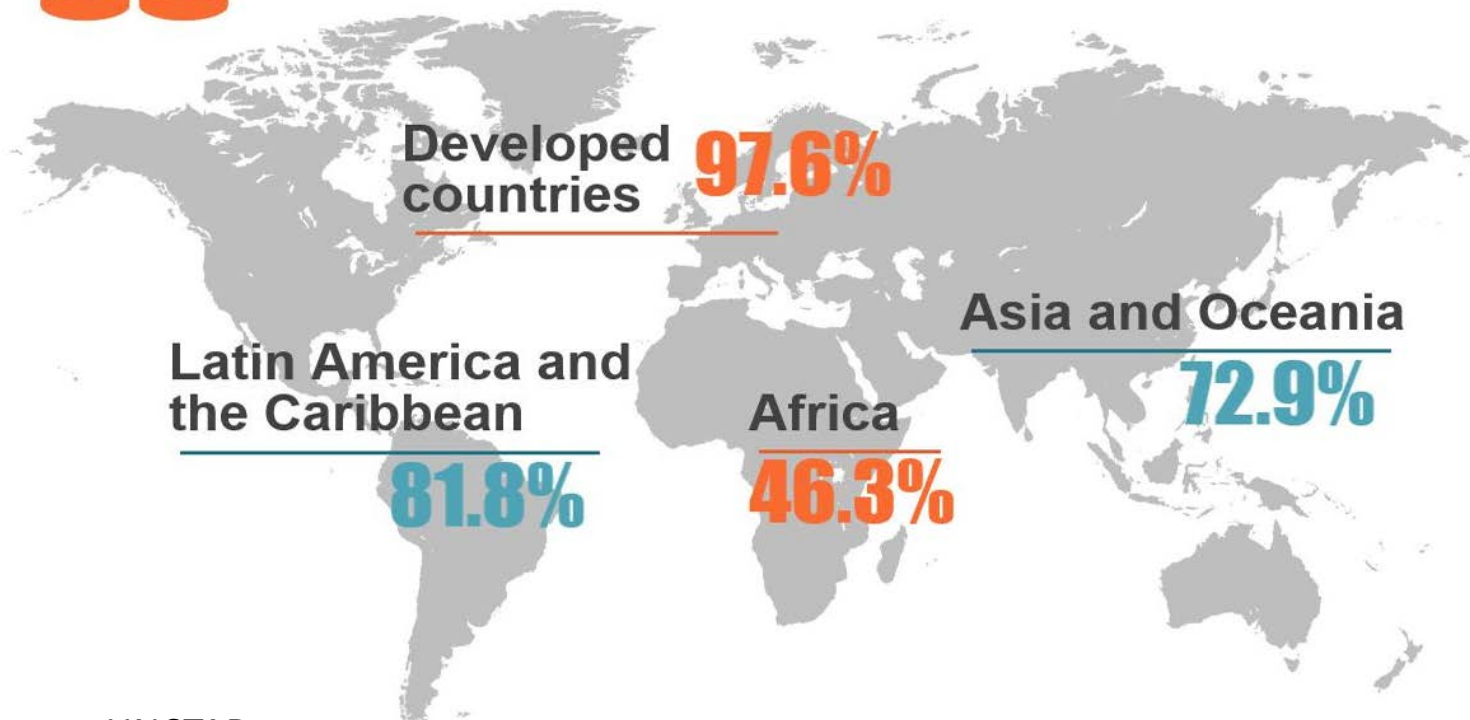
Source: UNCTAD.



E-transaction laws 2014



Share of countries with E-Transaction laws



Source: UNCTAD.



Wide coverage but limited compatibility of e-transactions laws

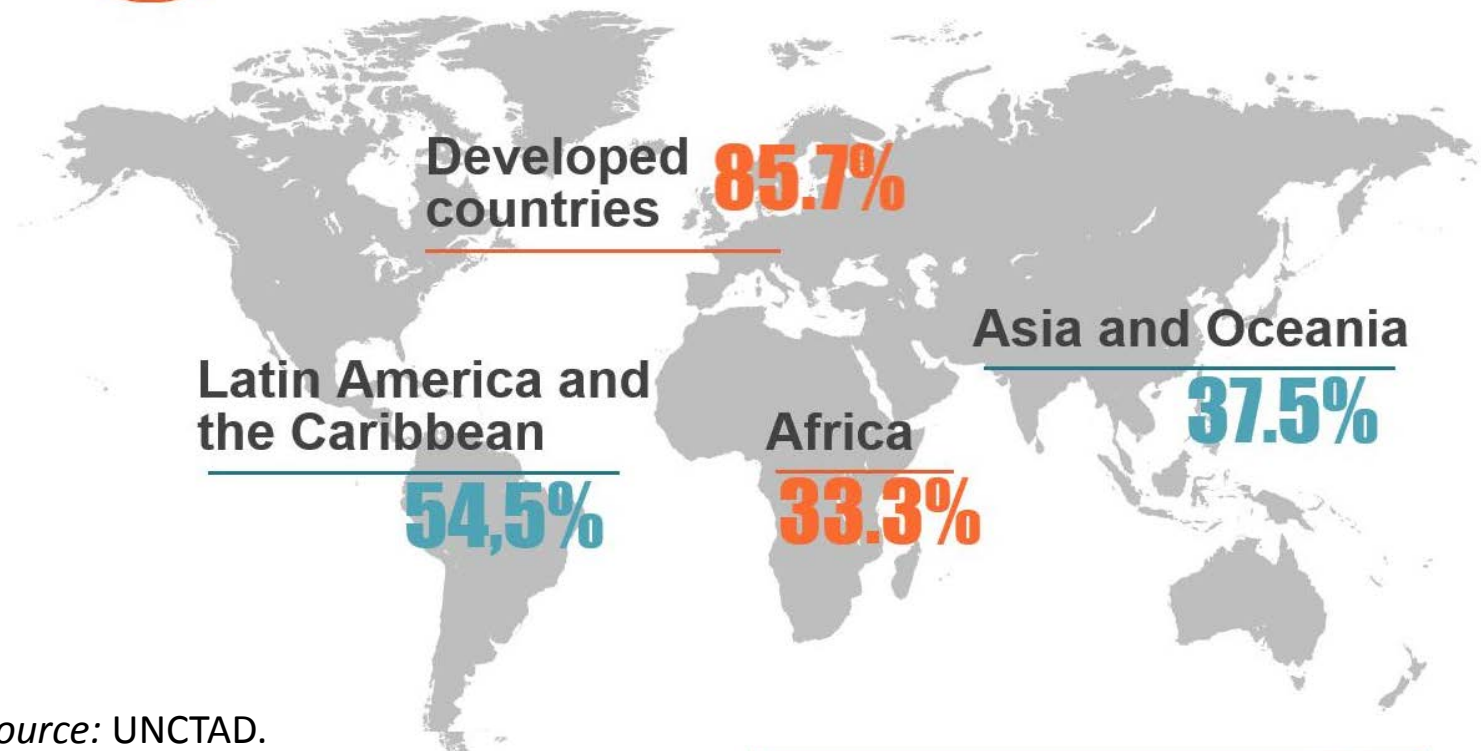
- UNCITRAL standards largely used: technology neutrality, non-discrimination and functional equivalence but variations exist
- Three main issues:
 - ✓ Laws mostly address e-signature but are often silent on other contractual terms (time and place of dispatch, party location, choice of law);
 - ✓ Some laws are not technology neutral, for example recognizing only certain digital signatures (e.g. PKI) – can hamper cross-border trade
 - ✓ Lack of capacity of the judiciary for law enforcement



Online consumer protection laws 2014



Share of countries with consumer protection laws



Source: UNCTAD.



Consumer protection online not fully addressed

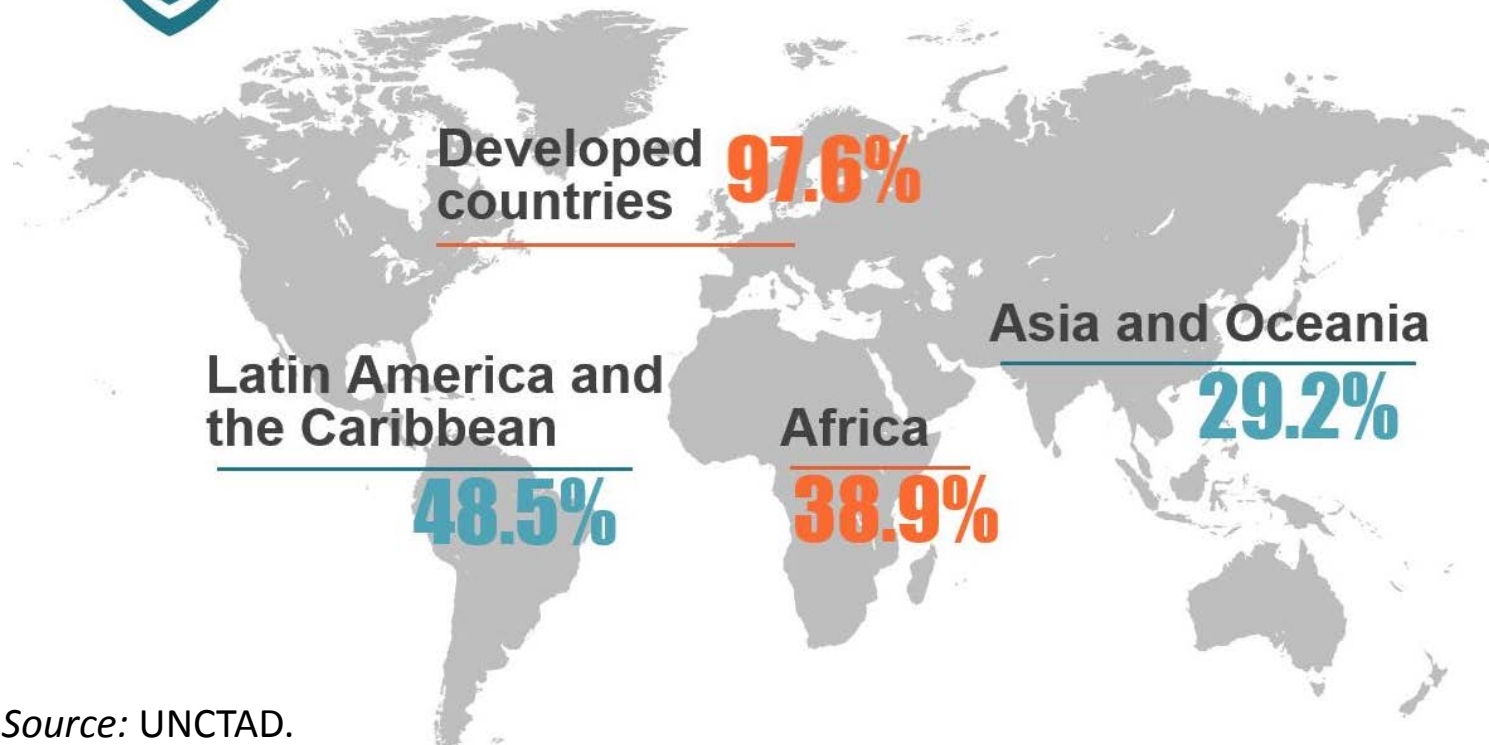
- Consumers more vulnerable online: deceptive and fraudulent activities(fraud, data breaches, spams)
- Protection needed for domestic and cross-border purchases
- Cross-border enforcement big challenge – cross-agency essential (e.g. ICPEN)
- OECD and UN Guidelines on Consumer Protection currently being revised



Data protection/privacy laws 2014



Share of countries with privacy and data protection laws



Source: UNCTAD.



Data protection and privacy online

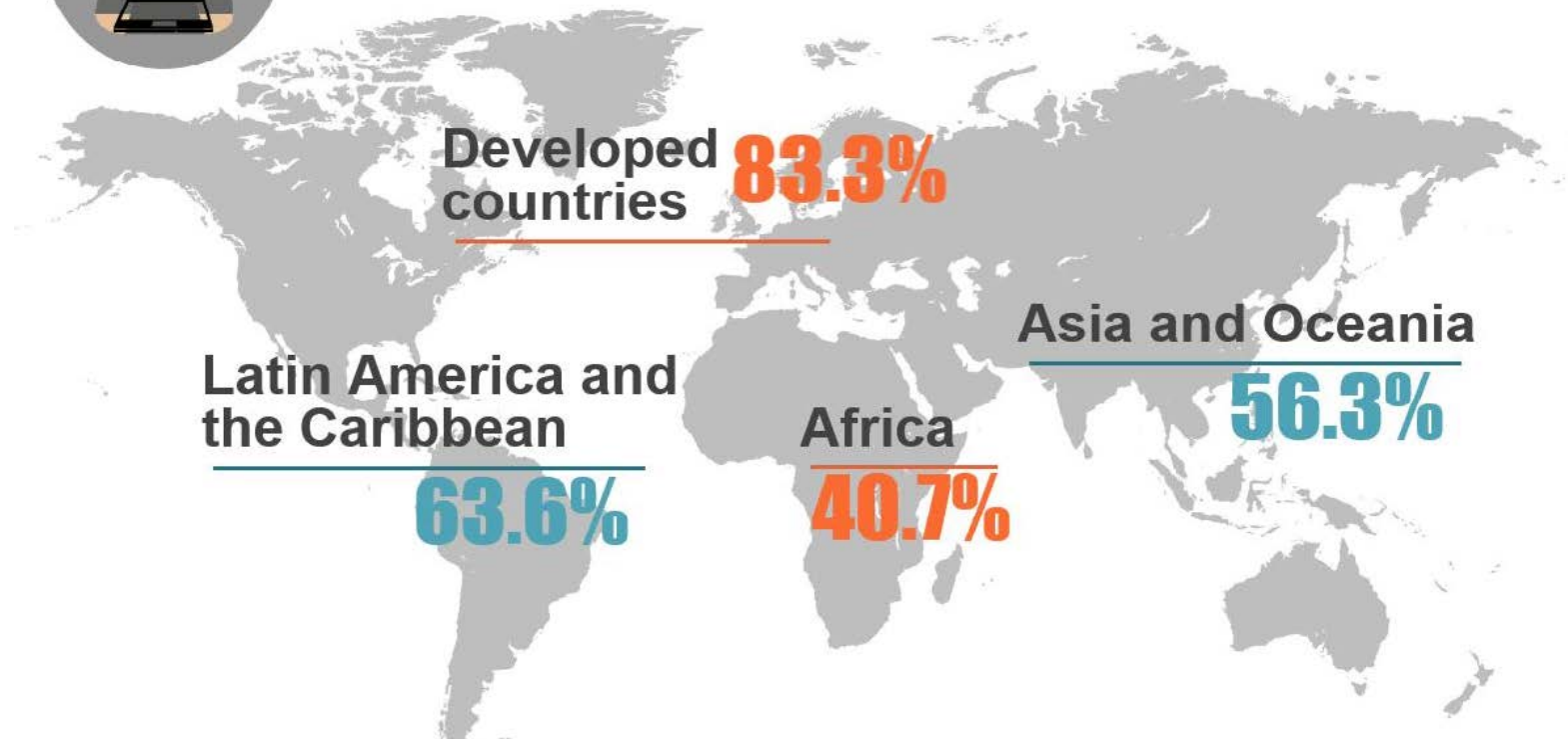
- Personal data increasingly fuelling the digital economy
- Cloud computing adds complexity to data protection
- >2,100 incidents reported in 2013, exposing >822 million records (Risk Based Security, 2014)
- Main international instruments
 - OECD Guidelines on Privacy
 - EU Data Protection Directive
 - APEC Privacy Framework
- Agreement on basic principles but not on their application



Cybercrime laws 2014



Share of countries with Cybercrime laws



Source: UNCTAD.

Cybercrime laws rapidly enacted but enforcement is challenging

- Growing concern to all countries
 - Estimated \$2.5 billion lost in online fraud in 2012 (Cybersource, 2013)
- Cybercrime hotspots: Russian Fed., China, Brazil, Nigeria and Viet Nam (Time, 2014).
- Mobile merchants incurring the greatest fraud losses
- Key international instruments
 - Council of Europe Convention on Cybercrime (2001)
 - Commonwealth Model Law on Computer and Computer-related Crime (2002)
 - African Union Convention on Cyber Security and Personal Data Protection (June 2014)
- Challenge: domestic and cross-border enforcement



Issues for Discussion

- How can the needs of countries in terms of cyberlaws best be assessed?
- What are best practices in fostering cross-border transactions and improving security of e-transactions?
- What role should the private sector play in securing transactions online and fostering consumer trust and confidence?
- What actions should be taken to monitor progress in developing countries and regions in developing relevant cyber legislation?
- How can assistance from international organizations and development partners help to facilitate the enforcement of compatible e-commerce laws?