



# E-commerce law in CAREC States: status and perspectives

**Luca Castellani**  
**Secretary, UNCITRAL Working Group IV**  
**(Electronic Commerce)**

# Which laws are relevant for e-commerce?

- Electronic communications are used in all business sectors
- The law of e-commerce is a cross-cutting issue
- Certain matters require specific legal treatment
- The following areas are particularly relevant:
  - E-transactions and e-signatures
  - Privacy and data protection
  - Cybercrime
  - Consumer protection
- Payment law and intellectual property rights law are also relevant
  - They are often dealt with in an uniform manner (BIS, WIPO, etc.)

# E-signatures and e-transactions law

- Foundational law
  - Provides legal recognition to the use of electronic means
- 65% of CAREC member States have it
  - Source: survey on [Trade Facilitation and Paperless Trade Implementation in CAREC Countries](#), section 3.5 and figure 13
- 10 CAREC States have it
  - Source: [UNCTAD cyberlaw tracker](#)
- Global model: UNCITRAL (Az, PRC, Pak, draft Afg)
- Regional model based on Russian e-signature law of 2002
  - Not technology neutral and does not promote interoperability
  - Focuses on PKI-based digital signatures using national technical standards

# Consumer protection law

- Regulates interaction with consumer
  - Applies to e-commerce and other distance sales of goods and services
- In CAREC, only China has it
  - Source: UNCTAD cyberlaws tracker
- Global models: UN Guidelines and UNCTAD Manual (apply to all consumer protection), OECD
- Regional and national models: European Union, Chinese e-commerce law of 2018

# Privacy and data protection law

- Regulates collection, use, storage and transfer of data
- 8 CAREC States have it
  - Source: UNCTAD cyberlaws tracker, adjusted
- Not clear if those laws have same purpose and how they are applied
- Global models: CoE Conventions 108 and 223 for the Protection of Individuals with regard to Automatic Processing of Personal
- Regional and national models: European Union GDPR, APEC Privacy Framework and Cross-Border Privacy Rules

# Cybercrime

- Establishes which behaviours are criminal as well as rule on cross-border cooperation
- 10 CAREC States have it
  - Source: UNCTAD cyberlaws tracker, adjusted
- Global models: CoE Cybercrime Convention (Budapest Convention)

# Status of e-commerce texts in CAREC

- Many States have adopted relevant laws
- Those laws are based on different models
- Those models often look at national rather than international needs
- The level of implementation of the laws is uneven
- These factors hinder national and international e-commerce

## E-commerce law: global trends

- Free Trade Agreements contain chapters on e-commerce and paperless trade facilitation
  - CPTPP and RCEP
  - WTO plurilateral Joint Statement Initiative
- Dedicated treaties:
  - WTO Trade Facilitation Agreement (six CAREC States)
  - ESCAP Framework Agreement on Paperless Trade Facilitation (Az, PRC)
  - UN Electronic Communications Convention (Az, PRC)
- Importance of factoring in these trends and developments even if most CAREC States are not directly involved



## Sources of technical assistance

- A number of organizations are active in providing various types of assistance
- UNCTAD [etrade4all](#) and Rapid E-Trade Assessments (Afg)
- ADB funding of projects involving e-commerce law reform
- ESCAP including assessments under the FA-PT TA pillar (Mon)
- UNODC and OSCE technical assistance to cybercrime laws implementation
- OSCE and national donors (GIZ, USAID / CLDP) assistance to paperless trade facilitation and e-commerce law reform
- Great Tumen Initiative (PRC, Mon)
  - Objective 3.2: to promote cross border E-commerce development

## Contributing to CAREC's work on e-commerce: the UNCITRAL example

- UNCITRAL is the core legal body of the United Nations system in the field of commercial law
- Has operated for 50 years on the basis of universal membership
- UNCITRAL's business is the modernization and harmonization of rules on international business
  - In particular, by drafting treaties and model laws
- UNCITRAL started working on legal aspects of electronic commerce already in the 1980s:
  - Electronic Data Interchange (EDI), cross-border electronic payments

# UNCITRAL texts on electronic commerce

- UNCITRAL Model Law on Electronic Commerce, 1996
  - Enacted in over 70 States.
- UNCITRAL Model Law on Electronic Signatures, 2001
  - Enacted in over 30 States (PRC, Pak)
- United Nations Convention on the Use of Electronic Communications in International Contracts, 2005:
  - 18 signatories, 11 State parties (Az, PRC signatory)
- UNCITRAL Model Law on Electronic Transferable Records, 2017
  - Enacted in 1 State
- For more information, see the [UNCITRAL website](#)

# UNCITRAL advisory services on technical assistance

- Promoting the adoption and use of UNCITRAL texts is an integral part of the UNCITRAL mandate
- Technical assistance activities include:
  - organizing and participating in workshops and conferences;
  - undertaking law reform assessments;
  - assisting in drafting legislation;
  - cooperating in law reform activities and projects
  - coordinating the work of other organizations active in the international trade law field to avoid duplication of efforts and promote consistency and coherence.
- Currently assisting Afghanistan in drafting the e-transactions and e-signatures law (with the support of CLDP)

# Considerations and suggestions

- The CAREC region offers great opportunities for e-commerce
- Successful e-commerce development requires:
  - coherent policy decisions;
  - a robust technical infrastructure;
  - and an appropriate legal environment
- In particular, cross-border e-commerce requires technology neutrality and technical interoperability
  - These are mostly missing in CAREC States
- Law reform based on best international standards is needed to support those goals
  - This will not affect but rather strengthen compliance

## Suggested activities

- Better explain the interrelation between the various areas of e-commerce law (e-transactions, consumer protection, privacy and data retention, cybercrime, payments, etc.)
- Clarify the relationship between FTAs/RTAs, paperless trade facilitation and e-commerce laws
- Further facilitate exchange of information on activities and promote coordination of concerned entities
- Develop more detailed indicators and specific diagnostic tools

Thank you!

For more information, please send an email to  
[luca.castellani@un.org](mailto:luca.castellani@un.org)