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# **Foundational principles for governance of transborder data flows**

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**The views expressed are those of the author and do not necessarily reflect the views of the United Nations and of UNCITRAL.**

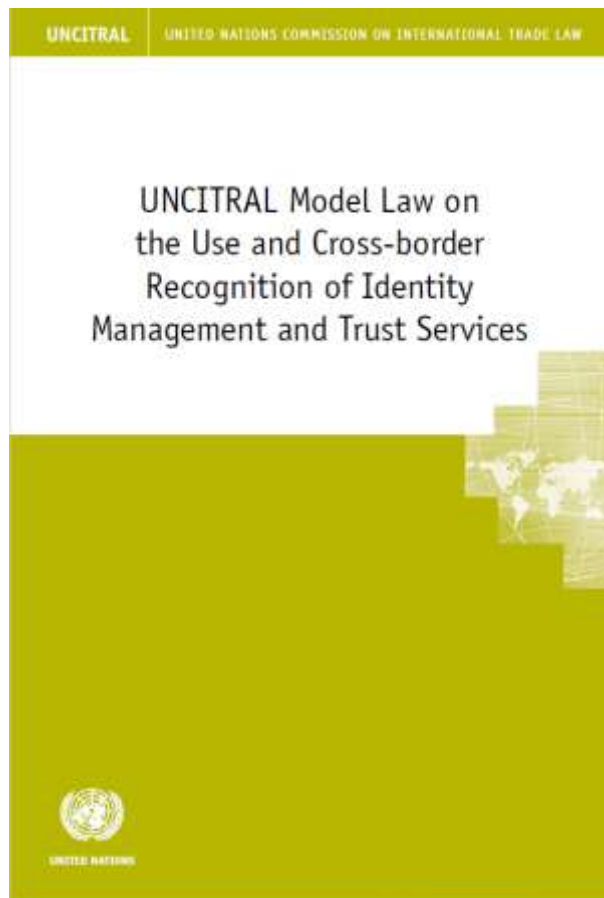
# From electronic communications to dataflows

- Electronic transactions are ubiquitous and pervasive
  - All trade is digital
- Initial focus on transmitting information reliably
- Current focus on data analysis and reuse
  - This reflects the increasing use of technologies such as Internet of Things and Artificial Intelligence
- Data is not the new oil...
  - It is non-rivalrous and time-sensitive
- ... but it fuels in large amounts the digital economy
  - Which is why business needs dataflows

# Enabling vs regulating dataflows

- National laws and FTAs may regulate dataflows
  - Data privacy and data protection
  - Data localisation
- Data Free Flow with Trust (DFFT)
  - 2023 G7 [Institutional Arrangement for Partnership \(IAP\)](#) to operationalize DFFT
- National laws and FTAs may also facilitate dataflows
  - Laws on assurance of data quality
    - E-signatures and trust services
    - 2022 UNCITRAL MLIT
  - Laws on transactions in data
    - Ongoing UNCITRAL work

# The UNCITRAL Model Law on the Use and Cross Border Recognition of Identity Management and Trust Services



- Adopted in 2022, the MLIT provides a comprehensive legal regime for identity management and trust services, including electronic signatures and time-stamping.
- It accommodates different approaches to determining the reliability of the services.
- It facilitates cross-border data flows by ensuring that uniform standards to assess data quality are applied regardless of the place of origin or use.
- Text available on UNCITRAL [website](#)

# Current work of UNCITRAL Working Group IV

- Mandate to prepare model rules to facilitate transactions in data
- Final form (contractual or legislative) to be determined
- Current draft contains rules on:
  - Mode of provision
  - Conformity of data
  - Use of provided data
  - Use of derived data
  - Remedies
- Work continues at the autumn session of UNCITRAL Working Group IV
- Documents available on the UNCITRAL [website](#)

# Dataflows and the digital transformation of trade

- Following the main trends, trade digitalisation is shifting
  - from digitalising single commercial documents...
  - ...to creating a comprehensive digital trade ecosystem where commercial documents are generated from a single electronic record and managed by multiple service providers
- The law does not change...
  - but the information about the transaction becomes accurate, complete, updated and authentic
  - for instance, an electronic bill of lading may replace a customs declaration if it contains the same information
- This requires reliance on assurance of data quality
- Regulatory restrictions to dataflows in commercial matters should be kept at a minimum