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# EU TRADE RELATED ASSISTANCE PHASE II

## Consultative Workshop Draft Electronic Transaction Act

Celebrating



**Years of Partnership**

'Working Together - Wok Bung Wantaim'  
#EUPNGPartnership

10 May 2018

Lamana Hotel

<http://www.pngeutra2.org.pg>



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# **General background information and historical record of the UNCITRAL Model Laws – why Electronic Transactions Act is necessary for PNG?**

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# Reasons for ETA in PNG

- Developed and developing countries alike are increasingly engaged in the development of **paperless trading systems**, often as part of broad based e-government or trade competitiveness initiatives.
- To ensure that these paperless trading platforms can operate and ultimately replace paper-based systems, it is essential that an enabling legal framework be put in place.



# Purpose of ETA – relevance to PNG:

- (a) **to facilitate electronic communications** by means of **reliable** electronic records;
- (b) **to facilitate electronic commerce**, to eliminate barriers to electronic commerce resulting from **uncertainties over writing and signature requirements**, and to promote the development of the legal and business infrastructure necessary to implement secure electronic commerce;
- (c) **to facilitate electronic filing** of documents with public agencies, and to promote efficient delivery by public agencies of services by means of reliable electronic records;
- (d) **to minimise the incidence of forged electronic records**, intentional and unintentional alteration of records, and fraud in electronic commerce and other electronic transactions;
- (e) **to help to establish uniformity of rules, regulations and standards regarding the authentication and integrity of electronic records**;
- (f) **to promote public confidence in the integrity and reliability of electronic records and electronic commerce**, and to foster the development of electronic commerce through the use of electronic signatures to lend authenticity and integrity to correspondence in any electronic medium.



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## Reference to international legal instruments

- UNCITRAL Model Law on Electronic Commerce of 1996 (adopted by over 70 countries in the world)
- UNCITRAL Model Law on Electronic Signatures of 2001 (adopted by over 30 countries in the world)
- United Nations Convention on the Use of Electronic Communications in International Contracts of 2005 (adopted as national law by at least 15 countries)
- UNCITRAL Model Law on Electronic Transferable Records of 2017



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# **Best practices in legal and institutional framework relevant to Electronic Transactions – examples from some countries**

- **EU Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on Electronic Commerce)**



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# Singapore – Electronic Transaction Act 1998

- Singapore was one of the first countries in the world to implement the UNCITRAL Model Law on Electronic Commerce in the form of the Electronic Transactions Act (ETA) in 1998.
- Singapore has been actively monitoring the developments in the field of e-commerce and in 2010, the ETA was repealed and re-enacted in order to take into account recent advancements and to accommodate future developments. The ETA enacted in 2010 largely retains the previous legal scheme for dealing with electronic transactions. However, there are a number of changes which allow for enhanced flexibility to take advantage of technological developments (such as Electronic Transferable Records).



## Other examples of legal issuances

- Federal Law N° 1 of 2006 on Electronic Commerce and Transactions of the UAE
- Republic act N° 8792 of 2000 providing for the recognition and use of electronic commercial and non-commercial transactions and documents, penalties for unlawful use thereof, and for other purposes of the Philippines
- Electronic Commerce Act N° 658 of 2006 of Malaysia
- Draft E-Commerce Law of the People's Republic of China, 2017





# **PNG Draft Bill on Electronic Transactions – general structure and scope of coverage**

## **Preamble**

## **Division I: General Provisions**

- 1. INTERPRETATION**
- 2. DEFINITIONS**
- 3. SCOPE OF APPLICATION**
- 4. EXCLUSIONS**
- 5. PARTY AUTONOMY**
- 6. LOCATION OF THE PARTIES**
- 7. INFORMATION REQUIREMENTS**



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# **PNG Draft Bill on Electronic Transactions – general structure and scope of coverage**

## **Division II: Electronic Transactions**

### **8. LEGAL RECOGNITION OF DATA MESSAGES**

### **9. WRITING**

### **10. ORIGINAL**

### **11. ADMISSIBILITY AND EVIDENTIAL WEIGHT OF DATA MESSAGES**

### **12. RETENTION OF DATA MESSAGES**

### **13. RECOGNITION BY PARTIES OF DATA MESSAGES**

### **14. ATTRIBUTION OF DATA MESSAGES**

### **15. TIME AND PLACE OF DISPATCH AND RECEIPT OF DATA MESSAGES**

### **16. ACKNOWLEDGEMENT OF RECEIPT**



# **PNG Draft Bill on Electronic Transactions – general structure and scope of coverage**

## **Division III. Electronic Contracting**

**17. FORMATION AND VALIDITY OF CONTRACTS**

**18. INVITATIONS TO MAKE OFFERS**

**19. USE OF AUTOMATED MESSAGE SYSTEMS FOR CONTRACT FORMATION**

**20. AVAILABILITY OF CONTRACT TERMS**

**21. ERROR IN ELECTRONIC COMMUNICATIONS**

**22. ADDITIONAL INFORMATION**



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## **Division IV. Electronic Signatures**

**23. EQUAL TREATMENT OF SIGNATURE TECHNOLOGIES**

**24. ELECTRONIC SIGNATURES**

**25. CONDUCT OF THE SIGNATORY**

**26. CONDUCT OF THE SERVICE PROVIDER**

**27. TRUSTWORTHINESS**

**28. CONDUCT OF THE RELYING PARTY**

**29. RECOGNITION OF FOREIGN ELECTRONIC SIGNATURES**



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## **Division V. Electronic Transferable Record**

**30. ELECTRONIC TRANSFERABLE RECORDS**

**31. LEGAL RECOGNITION OF AN ELECTRONIC TRANSFERABLE RECORD**

**32. TRANSFERABLE DOCUMENTS OR INSTRUMENTS**

**33. CONTROL**

**34. GENERAL RELIABILITY STANDARD**

**35. INDICATION OF TIME AND PLACE IN ELECTRONIC TRANSFERABLE RECORDS**

**36. ENDORSEMENT**

**37. AMENDMENT**

**38. REPLACEMENT OF A TRANSFERABLE DOCUMENT OR INSTRUMENT WITH AN ELECTRONIC TRANSFERABLE RECORD**

**39. REPLACEMENT OF AN ELECTRONIC TRANSFERABLE RECORD WITH A TRANSFERABLE DOCUMENT OR INSTRUMENT**

**40. NON-DISCRIMINATION OF FOREIGN ELECTRONIC TRANSFERABLE RECORDS**



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# PNG Draft Bill on Electronic Transactions – general structure and scope of coverage

## Division VI. Final Provisions

Sections with final provisions (including but not limited to the extent of liability of a service provider, lawful access to electronic files, obligation of confidentiality, penalties, implementing rules and regulations, transitional provisions)



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# WHAT IS COMMERCE ?

## Considerations from consumers, business society, public bodies

- According to Dictionary.com:  
“Commerce is a division of trade or production which deals with the exchange of goods and services from producer to final consumer”
- It comprises the trading of something of economic value such as goods, services, information, or money between two or more entities.



# WHAT IS E-COMMERCE

- Commonly known as Electronic Marketing.
- “It consist of buying and selling goods and services over an electronic systems such as the internet and other computer networks.”
- “E-commerce is the purchasing, selling and exchanging goods and services over computer networks (internet) through which transaction or terms of sale are performed electronically.





# Why using E-Commerce?

- LOW ENTRY COST
- REDUCES TRANSACTION COSTS
- ACCESS TO THE GLOBAL MARKET
- SECURE MARKET SHARE



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# Brief history of E-Commerce

- 1970s: Electronic Funds Transfer (EFT)  
Used by the banking industry to exchange account information over secured networks
- Late 1970s and early 1980s: Electronic Data Interchange (EDI) for e-commerce within companies
- Used by businesses to transmit data from one business to another
- 1990s: the World Wide Web on the Internet provides easy-to-use technology for information publishing and dissemination;
- Cheaper to do business (economies of scale)
- Enable diverse business activities (economies of scope)



## The Process of E-Commerce – Steps 1-3

- A consumer uses Web browser to connect to the home page of a merchant's Web site on the Internet.
- The consumer browses the catalog of products featured on the site and selects items to purchase. The selected items are placed in the electronic equivalent of a shopping cart.
- When the consumer is ready to complete the purchase of selected items, he/she provides a bill-to and ship-to address for purchase and delivery



## The Process of E-Commerce – Steps 4-5

- When the merchant's Web server receives this information, it computes the total cost of the order -- including tax, shipping, and handling charges--and then displays the total to the customer.
- The customer can now provide payment information, such as a credit card number, and then submit the order.



# Types of E-Commerce

- B2B - BUSINESS-TO-BUSINESS (B2B)
- B2B stands for Business to Business. It consists of largest form of Ecommerce. This model defines that Buyer and seller are two different entities. It is similar to manufacturer issuing goods to the retailer or wholesaler.
- B2C - BUSINESS-TO-CONSUMER (B2C):
- It is the model taking businesses and consumers interaction. The basic concept of this model is to sell the product online to the consumers.



# Types of E-Commerce

- B2E - Business-to-employee (B2E) electronic commerce uses an intra-business network which allows companies to provide products and/or services to their employees
- C2C - CONSUMER-TO-CONSUMER (C2C)

There are many sites offering free classifieds, auctions, and forums where individuals can buy and sell thanks to online payment systems like PayPal where people can send and receive money online with ease. eBay's auction service is a great example of where person-to-person transactions take place everyday since 1995.





**Thank you for your attention!  
Any questions?**



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