

Asia PKI Consortium – Digital Trust Summit

"Legal Recognition of Digital Transactions – Future of PKI and Interoperability"

Jayantha Fernando

SRI LANKA CERT|CC

Safeguarding Digital future -Global Standards



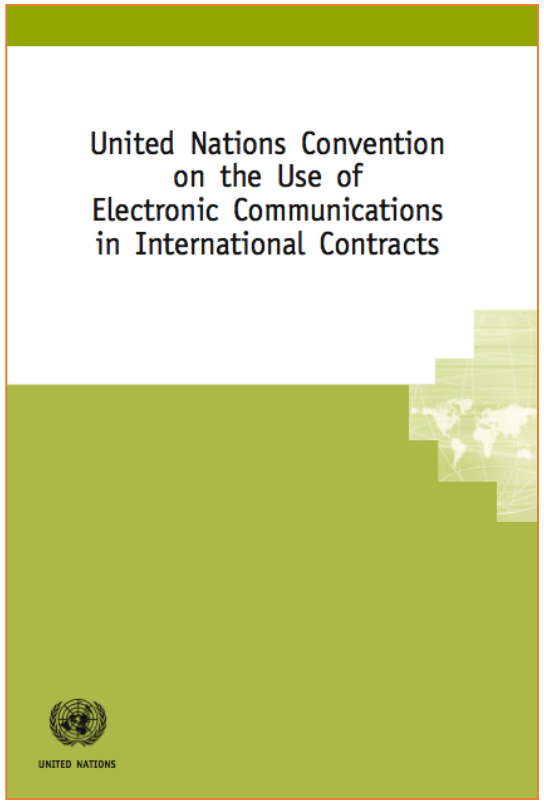
- Internet Economy – Tremendous opportunities – But several challenges
- Compliance with global Legal standards vital to gain from opportunities and deal with Challenges
- Existing Global Legal Standards :-
  - Privacy / Data Protection – OECD / APEC Privacy Frameworks/ GDPR – PDPA (2022 & 2025)
  - Cybercrime/ Electronic Evidence & International Cooperation – Budapest Cybercrime Convention / UN Treaty (Hanoi Convention) – Computer Crimes Act (2007), Criminal Procedure Code, MLA Amendment Act (2018)
  - Digital Transactions / e-Commerce – UN Electronic Communications Convention
    - Electronic Transactions Act 19 of 2006 (As Amended)
  - Intellectual Property – WIPO/ WTO
  - Cyber Security - OECD, NIST etc

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UN Electronic Communications Convention (e-CC)

Only International Treaty on Electronic Transactions





- Builds on UNCITRAL Model Law on Electronic Commerce (MLEC) - intended to facilitate electronic means of communications and storage of information.

- **E-CC is Binding between States once adopted**
- **E-Commerce Law 2.0 – Intl GOLD Standard**

- e-CC enables cross border paperless trade by assisting in validating the legal status of electronic transactions, preventing technology discrimination, enabling cross-border recognition of electronic signatures and permitting automated message systems all forms of e-Contracts with ability to correct input errors.

- There is widespread adoption of this Convention of which **South Korea, Singapore, Sri Lanka, Thailand. Fiji, Thailand and Philippines** are state parties

- China is a signatory and working towards ratification and the USA is “considering” accession.

Electronic Transactions Act No. 19 of 2006



- Substantive Legal Issues
  - Formation and validity of online Transactions – eg Contract
  - Overcome limitations relating to enforcement (writing and signature requirements, i.e Prevention of Frauds Ordinance of 1840)
  - Proof – Evidentiary issues

- Setting Standards / Interoperability for use of e-Signature-based Services

- **All transactions and business done in "electronic" form would be recognised under the Act, except those specifically excluded under Section 23**

Legal Validity of Electronic Signatures



- Legal effect of electronic signature (Section 7)
  - method used is proven in fact to have fulfilled the functions of identifying the party and proving the party's intention in respect of the information contained in the message, by itself or together with further evidence
  - method is as reliable as appropriate for the purpose for which the electronic communication was generated or communicated in the light of all the circumstances, including any relevant agreement;
  - Any technology is acceptable -- PIN No, QR Codes, Biometrics, Scanned signature etc.
  - Digital Certificates issued by "Certificate Service Provider" ensures greater degree of trust and legal validity
- UN e-CC facilitates cross-border recognition of electronic signatures based on the "substantive equivalence" standards
- **Court of Appeal Judgement - Commissioner General of Inland Revenue Vs Janashakthi Insurance Co Ltd [**CA (Tax) Appeal No. 10 / 2013] – recognized Tax Payer Identification Number (TIN) amounts to an e-signature under Sec 7 of ETA



Electronic Signature – Interoperability under ETA

- Section 18 and 18A (2017 Amendment)
  - National Certification Authority Task Force (with CBSL as Chair) from 2011
  - NCA functions – Sri Lanka CERT (Gazette 14 October 2019) -Root Certificate– 14th Feb 2020
  - Lanka-Sign (Lanka Pay) - Sri Lanka's *Financial Sector* **Certification Service Providers (CSP)**
  - Collaboration between CBSL, Digital Ministry & CERT

- Section 19
  - Powers of Certification Authority – Setting standards / ensure interoperability
  - Shift from Accreditation (2006) to a facilitation model – "authorization" or licensing

- Section 24 – Regulations
  - Minister can make Regulations to specify electronic infrastructure and guidelines on "Interoperability"

- Singapore – Sri Lanka FTA (E-Commerce Chapter)
  - Mutual Legal Recognition of Electronic Signatures

Future of PKI and Interoperability



- UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services (MLIT)
  - Model Law sets a uniform legislative standard for promoting trust in electronic transactions and documents
  - Legal building block for digital trade
  - legally enable use of identity management services for online identification of physical and legal persons
  - Use of trust services to provide assurances as to the quality of data in electronic form
  - Model Law enables cross-border recognition of the use of identity management and trust services.

- UNCITRAL Model Law on Electronic Transferable Records (Blockchain Law)
  - Enable legal use of electronic transferable records both domestically and across borders
  - Electronic transferable records relevant for certain business areas such as transport and logistics, and finance ("fintech")
  - for developing countries interested in establishing a market for electronic warehouse receipts to facilitate farmers' access to credit.

Classification: Confidential External

THANK YOU !

JAYANTHA.FERNANDO@CERT.GOV.LK

| JAYANTHA.FDO@LIVE.COM

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