LEGAL AND REGULATORY FRAMEWORKS

eTrade for all — Connecting the dots

UNITED NATIONS UNCTAD

CONTEXT

UNCTAD has carried out Rapid eTrade Readiness Assessments for Bhutan, Cambodia, Lao PDR, Liberia, Myanmar, Nepal, Samoa, Senegal, Solomon Islands and Vanuatu. Each assessment was carried out along the seven policy areas of the eTrade for all initiative:

- E-commerce readiness assessment
- ICT infrastructure and services
- Payment solutions
- Trade logistics and trade facilitation
- Legal and regulatory frameworks
- E-commerce skills development
- Access to financing

Although each assessment identifies country-specific barriers and opportunities related to strengthening e-commerce, and provides corresponding policy recommendations, some common themes are emerging.

This document summarizes the key findings and main policy recommendations, based on the seven assessments completed so far, with regard to: **legal and regulatory frameworks.**

WHY IS THIS IMPORTANT?

Security and trust are fundamental to e-commerce because they reassure both consumers and businesses. It essential for countries to establish laws and regulations related to electronic transactions, consumer protection, data protection and cybercrime. According to the UNCTAD Global Cyberlaw Tracker, the adoption of e-commerce legislation is very low among Least Developed Countries (LDC): 49 percent have e-transaction laws; 16 percent have data protection laws; 17 percent have cybercrime laws; and 13 percent have dedicated online consumer protection laws.

KEY FINDINGS

1. Lack of adapted legal frameworks on e-commerce

Due to general lack of capacity, most LDCs do not have up-to-date and comprehensive legal frameworks on e-commerce. Although the main bottleneck is the limited understanding of the complex issues around e-commerce and the lack of capacity in this area, the provision of a comprehensive legal framework will not, in itself, guarantee its success or promote its adoption.

2. Regulatory coordination and teamwork are key

While governments recognize the importance of creating enabling regulatory environments, and have embraced some policies to do so, the cross-cutting nature of e-commerce makes it difficult to implement holistic approaches. Many ministries, departments and agencies have a role to play, but coordination remains a challenge.

3. Cross-border provisions are missing

E-commerce legislation, when they do exist, rarely addresses the cross-border aspect of e-commerce. The creation of a conducive legal framework for cross-border e-commerce should be regarded as part of the larger picture, comprising multiple regional initiatives and agreements.

MAIN POLICY RECOMMENDATIONS

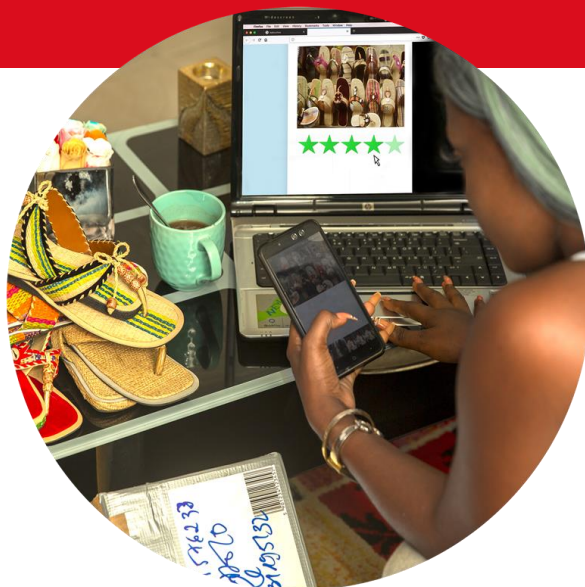## 1. Carry out a regulatory gap analysis on e-commerce.

Many relevant laws, regulations and policies have been rolled out, or are in various stages of development, yet they are not typically inter-linked and may even conflict with each other. A regulatory gap analysis can provide the basis for developing a more holistic approach to e-commerce laws and regulations.

2. Adopt baseline e-commerce legislation or update relevant laws and regulations.

As many LDCs do not have a legal framework in place, adopting a baseline legislation based on international best practices is instrumental. A review of existing laws and drafting of new laws in the area of electronic transactions, consumer protection, privacy, cybercrime, financial regulation and in other areas relevant to e-commerce, should be undertaken to boost the confidence of e-commerce providers and consumers.

3. Build awareness and knowledge among lawmakers and the judiciary.

This would help governments formulate informed policies and laws in the area of e-commerce and strengthen enforcement of such laws. Capacity-building will need to be rolled out including for Members of Parliament who adopt relevant laws.

4. Build awareness of existing e-commerce laws.

Raising public awareness of existing laws, including among the private sector, and the need for stronger laws to keep pace with technological change, would increase confidence among consumers and businesses participating in e-commerce.

5. Consult with the private sector and NGOs.

Multi-stakeholder consultations would help policymakers identify current regulatory constraints faced by the private sector. Addressing these constraints through appropriate regulations would increase investor confidence and remove barriers to e-commerce development.

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Rapid eTrade Readiness Assessments: http://unctad.org/en/Pages/Publications/E-Trade-Readiness-Assessment.aspx

eTrade for all: https://etradeforall.org/

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