

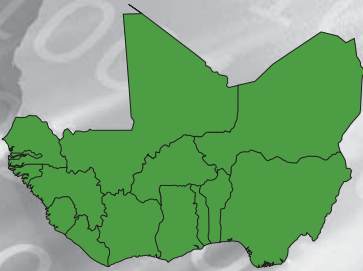


Review of e-commerce  
legislation harmonization  
in the Economic  
Community Of West  
African States





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## NOTE

Within the UNCTAD Division on Technology and Logistics, the ICT Analysis Section carries out policy-oriented analytical work on the development implications of information and communication technologies (ICTs). It is responsible for the preparation of the *Information Economy Report* as well as thematic studies on ICT for Development. The ICT Analysis Section promotes international dialogue on issues related to ICTs for development, and contributes to building developing countries' capacities to measure the information economy and to design and implement relevant policies and legal frameworks. Regional comparative studies are available for the ASEAN, the East African Community, Latin America and the Caribbean.

The TrainForTrade programme seeks to address trade-related human and institutional capacity needs of developing and transition economies. The ultimate goal is to increase countries' participation in international trade in an equitable and sustainable manner. TrainForTrade has proven to be instrumental in connecting UNCTAD research and analysis with sustainable capacity-building activities in member States. Its activities help to facilitate South-South and North-South collaboration and foster communication between trade and training experts.

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This publication has been edited externally.

The following symbols have been used in the tables:

**Two dots (..)** indicate that data are not available or are not separately reported. Rows in tables have been omitted in those cases where no data are available for any of the elements in the row;

**A dash (-)** indicates that the item is equal to zero or its value is negligible;

**A blank in a table** indicates that the item is not applicable, unless otherwise indicated;

**A slash (/) between dates** representing years, for example, 1994/95, indicates a financial year;

**Use of an en dash (-) between dates** representing years, for example, 1994–1995, signifies the full period involved, including the beginning and end years;

**Reference to "dollars" (\$)** means United States dollars, unless otherwise indicated;

**Annual rates of growth or change**, unless otherwise stated, refer to annual compound rates;

**Details and percentages in tables** do not necessarily add up to the totals because of rounding.

The material contained in this study may be freely quoted with appropriate acknowledgement.

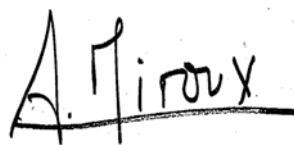
## PREFACE

The Economic Community of West African States (ECOWAS) has adopted several regulatory frameworks that govern electronic commerce with the aim of creating a harmonized legal environment in the area of e-transactions, data protection and cybercrime. In order to support their domestic implementation, UNCTAD, in cooperation with the ECOWAS Commission, has organized a series of capacity-building workshops to assist Member States in developing harmonized legislation on electronic commerce.

This Review relies on data received from regional workshops and distance learning courses organized in the ECOWAS region from 2013 to 2014. It provides an informed assessment of the state of e-commerce legislation in the region, identifies challenges and makes specific recommendations towards furthering harmonization within the region. In addition to the transposition of ECOWAS instruments at the national level, the need for additional work in the areas of electronic signatures, consumer protection and taxation procedures was recognized by Member States in the framework of UNCTAD's project. A call for more capacity-building initiatives for policymakers, legislators, the police, the judiciary, prosecutors and computer emergency response teams (CERTs) as well as the strengthening of enforcement agencies with emphasis on regional cooperation are part of these important recommendations.

Since 2000, the UNCTAD E-commerce and Law Reform Programme has provided support to developing countries in Africa, Asia, Latin America and the Caribbean through capacity-building training workshops including briefings of parliamentarians, assistance with preparing and enacting legal frameworks and regional reviews of e-commerce legislation harmonization. UNCTAD is proud to support the ECOWAS and its Member States in their efforts to achieve harmonization.

I would like to express my sincere appreciation to everyone who has contributed during the process. I hope that the analysis and recommendations will be of significant value and help to accelerate progress in the region. Let me assure you of UNCTAD's commitment to continue its support of the ECOWAS and its Member States in this context.



Anne Miroux  
Director  
Division on Technology and Logistics  
UNCTAD

## PREFACE

Over the past few years, the information and communications technology (ICT) sector has seen important developments, especially marked by the convergence of digital telecommunications technology platforms with computer and audiovisual systems.

The direct contribution of ICT to the national budget of member States, as well as its substantial contribution to development of other sectors of socio-economic activity is constantly increasing. The contribution of ICT to the GDP of West African countries is steadily growing.

For this reason, the ECOWAS recognizes ICT not only as a priority for its integration programs, but also as a tool for the realization of the ECOWAS Vision 2020. In particular, ICT facilitates, among other activities, the development of commerce and free movement of people, goods and services.

Therefore the ECOWAS has developed a set of Community Acts in order to encourage competitiveness, provide more efficient regulation for the ICT market—as well as trustworthy and secure services and applications for consumers—and create investment appeal for a faster and more harmonious development of the ICT sector.

Three of these acts promote electronic transactions:

- Supplementary Act A/SA.1/01/10 on personal data protection
- Supplementary Act A/SA.2/01/10 on electronic transactions
- Directive C/DIR/1/08/11 of 19 August 2011 on cybercrime

In fact, electronic transactions have seen strong and steady growth within the ECOWAS zone and throughout Africa in general, particularly in the areas of mobile telephone banking transfers and online government activities. It is therefore of the utmost importance that there be a legal framework necessary for the emergence of trustworthy electronic transactions, especially in electronic commerce, and that security is guaranteed within the ECOWAS.

The cross-border character of electronic transactions and electronic communications in general, needs a harmonized regulatory framework at both the regional and continental levels. Harmonization offers enormous advantages, notably:

- the facilitation of regulation, especially within a regional and global context;
- the creation of an environment that promotes business for the sake of all economic stakeholders; and
- greater consumer choice and, especially, electronic transaction security.

It is within this context that UNCTAD carried out the current study on the harmonization of cyber legislation within the ECOWAS. The legislation adopted by the ECOWAS in 2010 and 2011 on electronic transactions, protection of personal data and cybercrime has enabled the Member States to lay the foundations for the harmonization of their cyber legislation, take charge of priority areas for the development of ICT and to bridge the digital gap within the ECOWAS.

I have no doubt that the publication of this study, supported by several groups of stakeholders, further reinforces the capabilities of Member States to develop electronic commerce both in our community and at an international level.

The development of broadband, in particular mobile broadband, will increase Internet penetration rates in both urban and rural areas.

The development of electronic transactions will therefore inevitably be boosted by the intensification of 3G, 4G/LTE and the boom of more affordable smart-phones, thus facilitating high speed Internet access to more and more citizens and providing quality electronic transactions.



Dr. Isaias Barreto da Rosa  
Commissioner for Telecommunication and Information Technology  
ECOWAS Commission

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## ABBREVIATIONS

<b>ARTAO</b>	Association des Régulateurs des Télécommunications de l’Afrique de l’Ouest
<b>ARTCI</b>	Côte d’Ivoire’s Telecommunications Regulatory Authority
<b>AU</b>	African Union
<b>AUCC</b>	African Union Convention on the Establishment of a Legal Framework Conducive to Cybersecurity in Africa
<b>ccTLD</b>	Country Code Top-level Domain
<b>CDP</b>	Commission des Données Personnelles (Sénégal)
<b>CERT</b>	Computer Emergency Response Team
<b>ECOWAS</b>	Economic Community of West African States
<b>ETA</b>	Electronic Transactions Act
<b>HIPSSA</b>	Harmonization of ICT Policies in Sub-Saharan Africa
<b>ICANN</b>	Internet Corporation for Assigned Names and Numbers
<b>ICT</b>	information and communications technology
<b>IXP</b>	Internet Exchange Point
<b>NIC</b>	Network Information Center
<b>NICCI</b>	Network Information Center Côte d’Ivoire
<b>OHADA</b>	Organisation pour l’Harmonisation en Afrique du Droit des Affaires
<b>TLD</b>	Top-level Domain
<b>UEMOA</b>	Union Economique et Monétaire Ouest Africaine
<b>UNCTAD</b>	United Nations Conference on Trade and Development
<b>UNCITRAL</b>	United Nations Commission on International Trade Law
<b>WAEMU</b>	West African Economic and Monetary Union
<b>WATRA</b>	Western African Telecommunications Regulators Assembly

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## ACKNOWLEDGEMENTS

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The study's principal consultants were Professors Abdoullah Cissé and Ian Walden. The study was prepared by a team from UNCTAD comprising Gonzalo Ayala, Cécile Barayre, Dominique Chantrel, Torbjörn Fredriksson and Ngozi Onodugo under the overall guidance of Anne Miroux. Statistical support was provided by Smita Lakhe and Agnès Collardeau-Angleys.

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