Study on prospects for harmonizing cyberlegislation in Latin America

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CYBERLEGISLATION IN LATIN AMERICA

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FOREWORD

In the context of the information society, there is an undisputable need to foster the development of public policies aimed at harmonizing norms and standards at the regional level by creating or adapting legislative frameworks that build trust and permit secure online transactions. This need has been recognized in various instruments arising from the World Summit on the Information Society (WSIS).

Specifically, Goal 25 of the Regional Plan of Action eLAC 2007 cites the need to "establish subregional working groups to promote and foster policies for harmonizing norms and standards, with the aim of establishing legislative frameworks that merit trust and offer security at both the national and regional levels, paying special attention to legislation on the protection of privacy and personal data, cybercrime and crimes facilitated by the use of ICT, spam, digital or electronic signatures, and electronic contracts as a framework for the development of the information society".

The development of e-commerce and the increasing interaction between enterprises and government agencies via electronic means call for a regulatory framework that promotes secure online transactions and provides legal security for those opting to use electronic means rather than conventional means of communication. Since 2003, the United Nations Conference on Trade and Development (UNCTAD) has been active in providing cooperation and technical assistance to governments of developing countries in Africa, Asia and Latin America, for the purpose of developing legal frameworks to regulate ICT use. UNCTAD delivers training on legal aspects of information and communication technologies, along with support for the creation of a harmonized legal framework to promote the development of an environment conducive to ICT use in the developing countries.

In this context, UNCTAD has, since 2007, carried out various joint activities with the General Secretariat of the Latin American Integration Association (Asociación Latinoamericana de Integración, or ALADI) and the Special Group for Technology Issues of the Argentine Ministry of Foreign Affairs. The purpose of these activities is to train government and private sector representatives from member countries of ALADI, in order to strengthen their capacities, share their regulatory experiences and encourage the formation of multidisciplinary and specialized working groups on the legal aspects of e-commerce.

One of the principal objectives of UNCTAD is to provide technical assistance to those countries for developing public policy and regulation, based on international best practices that encourage the development of e-commerce and e-government services. International commitments at the regional level demand an understanding of the legal framework of each country, within the Latin American context, in order to identify areas of harmonization.

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I. BACKGROUND

Since 2007, UNCTAD has carried out joint activities with the ALADI Secretariat, the Special Group for Technology Issues of the Argentine Ministry of Foreign Affairs with the support of the Kingdom of Spain, in order to train public and private sector representatives from member countries of ALADI, strengthen their capacities, share regulatory experiences and encourage the formation of multidisciplinary and specialized working groups on the legal aspects of e-commerce.

Training materials on the Legal Aspects of e-commerce were developed and adapted for the online delivery of the course, designed to disseminate international best practices regarding the main legal issues raised by ICT and e-commerce[1] The first online delivery was held on 6-31 August 2007 with 105 participants from Argentina, the Plurinational State of Bolivia, Cuba, Chile, Ecuador, Mexico, Paraguay, Peru, and Uruguay. The course included a questionnaire in which the country representatives were asked to provide information on international treaties, legislation, administrative regulations, judicial rulings and major programmes relating to e-commerce in their respective countries.

This was followed by a face-to-face seminar on the Legal Aspects of e-Commerce (1-5 October 2007) held at the ALADI Secretariat in Montevideo, Uruguay. Twenty representatives, selected among the participants in the online course, participated. They presented their countries' principal laws and regulations relating to e-commerce. The event laid the foundations for the formation of the "Montevideo Group", a working group that supports the creation of two pilot projects as specified in the boxes below.

(i) ALADI Pilot Project on Digital Certificates of Origin

ALADI has promoted the development of a Pilot Project on Digital Certificates of Origin designed to facilitate cross-border trade among its member countries by creating a technological platform. Overseen by the ALADI Secretariat, and based on cryptographic electronic signature technologies, the platform is designed to manage, administer and verify the digital certificates of government representatives authorized to issue (sign) digital certificates of origin (DCOs) to parties involved in foreign trade (importers, exporters, customs agencies, parties with power of attorney and customs agents).

As part of the effort to organize the project, an international public bidding process was held in 2008. The winning firm is to be contracted to develop the technological platform to operate the DCO system in its initial phase. The DCO project requires that, over the long term, the region's participating countries harmonize their legislation and technological standards.

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[1] The training material includes modules on the legal validity of messages, electronic signatures, e-transactions, consumer protection, privacy, cybercrime, intellectual property, taxation, security.

(ii) Regional Seal of Trust Pilot Project

In connection with this pilot project, a memorandum of understanding was signed by: the Mexican Internet Association (Asociación Mexicana de Internet, or AMIPCI); Japan's TradeSafe and ECNetwork; the Secure Online Shopping Association (SOSA) of the Chinese Province of Taiwan; the Korean Institute for Electronic Commerce; CommerceNet and Case Trust, in Singapore; and TRUSTe, in the United States. These organizations are the principal providers of seal of trust services in the Asia-Pacific Region, together constituting the Asia-Pacific Trustmark Alliance (ATA). The memorandum of understanding was signed on 7 November 2007, and, through the AMIPCI seal of trust, which participates in the APEC Data Privacy Pathfinder project and is compatible with the seals of trust of that regional organization, formally made AMIPCI a member of the ATA.

Also notable is the Memorandum of Understanding signed on 20 November 2008 in the context of the "Second Latam e-Commerce Conference 2008" held in Mexico City, organized by the Mexican Internet Association (Asociación Mexicana de Internet, or AMIPCI), the Colombian Chamber of Electronic Commerce, the Spanish Electronic Commerce and Relational Marketing Association, the Santiago (Chile) Chamber of Commerce, the Brazilian Chamber of Electronic Commerce and the Argentine Chamber of Electronic Commerce. The organizations that signed the memorandum of understanding thereby committed themselves to working collectively to define a minimum regulatory framework aimed at the adoption, use and reciprocal recognition of seals of trust in Ibero-America.

A second online delivery of the course on the "Legal Aspects of Electronic Commerce", took place from 11 August to 5 September 2008, with 99 representatives of Argentina, the Plurinational State of Bolivia, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru and the Bolivarian Republic of Venezuela. The training modules were updated substantially to suit the Latin American context and to reflect the main international commitments adopted in the region, as well as the regulatory and public policy advances made in connection with the World Summit on the Information Society.

Following the online course, a Regional Workshop on Cyberlegislation was held in Buenos Aires, Argentina on 6-10 October 2008 and was organized in cooperation with the Argentinian Foreign Ministry's Special Group for Technology Issues. Twenty representatives of the above-mentioned countries presented the status of their domestic cyberlegislation. These presentations were followed by discussion groups on specific legal issues emerging from e-commerce.

Based on these activities, UNCTAD prepared this comparative study of laws and regulations pertaining to e-commerce in the participating countries. Local and international experts were also consulted, as well as websites of major government agencies to gain a more thorough understanding of the legal frameworks in place in the different countries.

II. REPORT ON THE LEGAL FRAMEWORKS IN THE PARTICIPATING COUNTRIES

This section analyzes legal developments in each of the participating countries, through a brief study of the domestic laws and regulation in the areas of: (i) electronic transactions; (ii) electronic signatures and authentication; (iii) consumer protection; (iv) protection of personal data; (v) cybercrime; (vi) intellectual property rights; (vii) domain names; and (viii) taxation and customs issues.

A) Argentina

Argentina has not yet adopted specific legislation on contracts made electronically. However, it has regulations in different areas relating to e-commerce as part of the Civil Code, the Commercial Code, the Digital Signature Act (Law 25.506) and the Consumer Protection Act (Law 24.240).

The Civil Code governs various issues associated with the formation of contracts and related formalities. It sets forth the principal rules governing offerings to the public, their acceptance, the formation of contracts between parties both of whom are physically present, as well as between parties that are not, and the time at which a contract takes effect.

Under the Commercial Code, indeterminate offers to the public are not binding. To protect consumers, Law 24.240 makes offers that are directed to non-specific potential consumers binding on those issuing them over the period of time during which the offer is in force, and parties making offers must provide information regarding the modalities, conditions and limitations surrounding the offers. It also establishes that the specifics offered through advertising shall be binding on the party offering them and that these specifics must be included in the contract made with the consumer.

Law 24.240 sets forth special requirements for contracts with consumers, who, within five days of the date on which the product is delivered or on which the contract is signed, have the right to opt out without incurring any liability, if procurement of the goods is effected through electronic means. In addition, some sectors have adopted self-regulation measures to protect consumers' rights. These include the Code of Conduct of the Chamber of Commercial Information Firms and the Code of Ethics of Argentina's Direct and Interactive Marketing Association.

At the regional level, Argentina's domestic law has incorporated Resolution GMC MERCOSUR 21/2004, regarding consumers' right to information in connection with transactions conducted via the internet.

Law 25.506 recognizes the legal validity of electronic documents and signatures and of digital signatures, making handwritten signatures and digital signatures legally

equivalent. It also requires that digital documents comply with the requirements applicable to written documents. The law is based on model laws regarding e-commerce and electronic signatures developed by the United Nations Commission on International Trade Law (UNCITRAL), and is used in both the public and private sectors.

A number of Argentina's provinces have made this law applicable to public administration in their jurisdictions. In addition, Argentina has signed the Southern Common Market (Mercado Común del Sur, or MERCOSUR) regulations governing standards on the use of digital signatures (Resolutions GMC 34/06 and 37/06 on electronic and digital signatures) and has incorporated them in its domestic regulations.

In the area of public contracting via electronic means, Decree 1023 of 2001 governs the contracting regime of the national government, and corresponding regulations are provided in Decree 1818/2006, which institutes the Government Electronic Procurement System (Sistema Electrónico de Contrataciones Públicas, or SECOP). Administrative Decision 6/2007 of the Presidency of the Cabinet of Ministers sets technical operational standards for Argentina's digital signature infrastructure.

In connection with cross-border transactions, Argentina is considering signing the UNCITRAL United Nations Convention on the Use of Electronic Communications in International Contracts, and has already signed the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980, as well as the Treaties on International Civil Law (the 1889 and 1949 Montevideo Treaties) governing international contracts.

For the protection of personal data, Law 25.326 provides a regime that is aligned with European regulations (European Commission Directive 95/46). This law established the National Office for the Protection of Personal Data, an ad hoc entity responsible for monitoring compliance with this law in various contexts. In 2003, the European Union recognized Argentina's regulatory framework as being consistent with the standards of the framework of the European Council.

In the area of intellectual property rights, Argentina has signed the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), as well as the International Convention for the Protection of Literary and Artistic Works (Berne Convention), the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms (Geneva Convention), the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention) and the Convention relating to the Distribution of Programme-carrying Signals Transmitted by Satellite (Brussels Convention). In addition, it has signed the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) administered by the World Trade Organization (WTO).

With regard to domain names, Argentina's Network Information Centre (NIC) has made arbitration procedures part of its dispute resolution policy, and has recognized the WIPO Arbitration and Mediation Centre as a service provider.

Changes have also been made in the criminal law. Law 26.388 modifies the Penal Code, defining certain cybercrimes such as intercepting communications, gaining illicit access to computer systems, causing harm to information technology (IT) systems, fraud, falsifying electronic or IT-based documents, interrupting communications and deleting or altering digital evidence. Other instruments, such as Law 25.036, provide sanctions for violating intellectual property rights associated with software, and define the crimes of forging digital signatures and, under the National Intelligence Act, the crime of violating secrecy and improperly interrupting communications are sanctioned.

B) Plurinational State of Bolivia

The Plurinational State of Bolivia has no specific electronic commerce legislation, but its Civil and Commercial Codes contain provisions regulating certain aspects of e-commerce. Under these bodies of law, contracts made via telephone, telegraph, telex, radio and similar media between parties not physically present are valid, and are considered to have been made in the location designated by the parties.

In the area of electronic transactions and signatures, the Banking and Financial Institutions Act (Law 1488) establishes the regulatory framework of the Central Bank of Bolivia governing digital signatures in the payment system

Other relevant provisions are the High-Value Payments System Regulations (Reglamento del Sistema de Pagos de Alto Valor, or SIPAV), the Digital Signature Regulations contained in Resolution 086-2004 and the Central Bank of Bolivia Board of Directors Resolution 070-2001, which regulates, in greater detail, various aspects of digital signatures and digital certificates.

In order to update its regulatory framework and provide legal security for online transactions, the Plurinational State of Bolivia has developed a proposed Electronic Documents, Signatures and Commerce Act (Legislative bill 080/2007), which is currently being reviewed by Parliament. The bill is based on the UNCITRAL model laws on electronic commerce and electronic signature, and includes measures regulating electronic documents and contracting. It includes provisions on the formation of contracts and their entry into force, as well as on applicable jurisdiction.

The Plurinational State of Bolivia has no specific consumer protection legislation. However, matters regulated by the Sectoral Regulatory System Law (Ley del Sistema de Regulación Sectorial, or SIRESE) include anti-competitive practices detrimental to consumers of telecommunications services, electricity, hydrocarbons, transportation and water. This law also created an Office of Consumer Affairs within SIRESE.

In the area of privacy, personal information is protected by provisions in the national Constitution, as well as in laws such as the Administrative Procedures Act, the Civil Code, the Penal Code - Law 1768, the Telecommunications Act and Supreme Decree 28168. The Constitution makes private correspondence, papers and communications inviolable. It also provides for *habeas data* to guarantee access to, correction of and/or removal of personal information that violates the right to privacy to which persons and families are entitled, or that damages their image, honour or reputation. In the area of administrative regulation, Supreme Decree 26168 establishes a number of provisions for *habeas data* in the administrative realm.

The Civil Code, Penal Code and Telecommunications Act contain provisions regarding the inviolability of private communications, while the Administrative Procedures Act guarantees the right to access files, records and documents in the possession of government entities, in any medium, unless they contain information relating to national security or contain confidential commercial, banking, industrial, technological or financial information.

The proposed Electronic Documents, Signatures and Commerce Act (Law 080/2007) also includes measures to protect personal data, as well as incorporating certain cybercrimes defined in the Penal Code.

The Plurinational State of Bolivia has a number of national laws and regulatory provisions protecting intellectual property rights, including the Industrial Secrets Act of 12 December 1916, the Trademark Regulation Act of 15 January 1918, the Copyright Act (Law 1322) of 13 April 1992, the Regulatory Decree of 7 December 1994, the Supreme Decree of 25 April 1997 creating the Interinstitutional Committee of Protection and Defence of Intellectual Property, and Supreme Decree 24582 of 25 April 1997, which regulates computer applications and software.

As a complement to its legal system, the Plurinational State of Bolivia has also incorporated a number of subregional instruments of the Andean Community, including Decision 486 (the Common Industrial Property Regime) and Decision 351 (the Common Regime on Copyright and Related Rights). Decision 486, which references the Paris Convention in connection with the protection of industrial property, governs various aspects of patents for inventions, utility models, integrated circuit diagrams, industrial designs, trademarks, commercial logos, collective trademarks, business names, denominations of origin, actions related to infringement of rights and unfair competition, as well as registration procedures.

Decision 351 of the Andean Community protects literary, artistic and scientific works in all forms and media, specifying the rights and obligations of authors and right holders, and establishing procedures for registering and protecting such works.

The Agency for the Development of the Information Society in Bolivia (Agencia para el Desarrollo de la Sociedad de la Información en Bolivia, or ADSIB), created by Supreme Decree 26553, is administratively and technically responsible for the

management of ".bo" domain names. ADSIB is formulating new general policies, as well as dispute resolution procedures based on the WIPO dispute resolution mechanisms.

In the area of taxation and customs, the Plurinational State of Bolivia has passed the Tax Reform Act (Law 843) and the General Customs Act (Law 1990), which draws on some of the Asia-Pacific Economic Cooperation (APEC) best practices.

C) Chile

The development of electronic commerce in Chile has been supported in significant ways by the issuance and updating of regulations establishing the validity of operations effected via electronic means, as described below.

Law 19.799 of 2002, which deals with electronic documents and signatures, as well as with services to certify electronic signatures, is based on a number of provisions in the UNCITRAL Model Law on Electronic Signature, and on the Digital Signature Act of the state of Utah (United States). Law 19.799 makes acts and contracts awarded or made by natural or juridical, private- or public-sector persons, and signed with electronic signatures, valid on the same basis as, and legally equivalent to, written contracts. Such acts and contracts are considered equivalent to those made in writing, in cases where the law requires that they be in written form.

Law 19.799 authorizes State entities to execute or carry out acts, make contracts and issue all documents within their areas of authority, signing them with electronic signatures. It also sets forth the obligations to which certification services providers are subject, as well as the requirements for electronic signature certification and the rights and obligations of users of electronic signatures.

In addition, Law 20.217, which modifies the Code of Civil Procedure, and Law 19.799, which deals with electronic documents and signatures and with the certification of electronic signatures, recognizes as public instruments electronic documents presented as evidence at trial, provided that they employ advanced electronic signatures. The law also establishes that the dates indicated on such documents are legally valid only if the e-signature is supported by an electronic date furnished by an accredited provider.

Law 19.886, which governs public procurement, requires government entities to obtain estimates, hire personnel, award contracts, request clearance, and carry out all procurements and contracts for goods, through electronic systems authorized by the Office of Public Procurement and Contracting, using either open or closed networks, using e-commerce platforms or digital transactions markets. It also creates an official electronic registry in which all qualified natural and juridical persons contracting with State entities, whether Chilean or foreign, are required to register. Public entities generally may not award contracts for which bidding has not taken place through electronic or digital systems.

In the consumer protection area, Law 19.496 establishes various measures to safeguard consumers' rights in connection with online transactions. The principal provisions include consumers' right to withdraw from purchases without penalty within 10 days of receiving the product or of contracting for the service online (before the service has been received). It also compels providers to allow consumers to have access to a clear, comprehensible, unambiguous, saveable and printable description of the general conditions governing contracts made via electronic means.

The law also requires providers to furnish unambiguous and easily accessible information on the steps that consumers must follow to enter into a contract, and providers must inform consumers whether the electronic document in which a contract is formalized will be filed, and whether the consumer will have access to it. The provider must give its postal or e-mail address, and explain what technical means it provides for the consumer to identify and correct errors in shipment or in personal data. Furthermore, it obliges providers to ensure that promotional and advertising communications via the Internet include the sender's identity, as well as a valid address that the consumer can use to cancel shipment.

Chile has also developed self-regulation measures to build consumer confidence in e-commerce operations. These include the "Trust Seal" of the Santiago Chamber of Commerce, which is compatible with that of the Better Business Bureau (BBB) in the United States, where providers must subscribe to a Code of Best Practices for Electronic Commerce before they are permitted to use the trust seal on their websites.

In order to protect personal data, the Chilean Constitution enshrines the right to privacy and establishes the inviolability of private documents and communications as a fundamental right. In addition, Law 19.628 of 1999, which provides privacy protection, and which was modified by Law 19.812 of 2002, regulates the treatment, by public and private entities, of personal data contained in records and databases. It borrows certain measures from Spain's Organic Law on the Automated Treatment of Personal Data (1992) concerning persons' rights regarding their personal data, such as access to, and correction of, erroneous, inaccurate or obsolete data. It also provides sanctions and procedures for enforcement in the event of a violation of the law.

In the criminal area, Law 19.223 of 1993, dealing with cybercrime, defines the crimes of: (i) information-technology sabotage, which involves destroying or rendering useless an information processing system or its parts or components, or impeding, obstructing or altering their functioning—a crime whose seriousness increases when data are affected; (ii) information-technology espionage, which consists of intercepting, interfering with or accessing an information processing system to control, utilize or improperly gain knowledge of information contained in it; (iii) alteration of data, which includes destroying or causing damage to them; and (iv) revealing or disseminating, without authorization, data contained in an information processing system.

In the intellectual property rights area, Law 17.336 of 1970 governs copyright protection of literary, artistic and scientific works, including computer programs,

regardless of their form of expression. It also protects copyright-related rights. The law defines various intellectual property rights crimes, including for-profit reproduction, public distribution or importation, and acquisition for sale, of computer programs without proper authorization.

Chile has signed the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. It has also signed the Berne Convention for the Protection of Literary and Artistic Works, the Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, and the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. It has also signed the TRIPS Agreement, administered by the WTO.

In the area of domain names, Chile's NIC is administered by the Computer Sciences Department of the University of Chile, through the Internet Assigned Numbers Authority (IANA). It has established mediation and arbitration procedures as part of the regulations governing the operation of ".cl" domain names.

In order to recognize the validity, for tax purposes, of commercial operations executed through electronically generated documents, various legal provisions have been put in place and/or modified to permit electronic invoicing in Chile. The most important of these include: (i) Decree Law 825 regarding the value added tax; (ii) Domestic Tax Service (Servicio de Impuestos Internos, or SII) Exemption Resolution 09 of 2001, which establishes a number of standards under the Tax Code, regulating the use of electronic signatures and certificates in tax-related matters; (iii) Law 19.983 of 2004, which regulates transfers and establishes that copies of invoices shall have the same validity as the original invoices; (iv) SII Exemption Resolution 86 of 2005, which establishes the standards and procedures for authorized taxpayers to issue electronic invoices; and (v) Decree Law 830 relating to the Tax code, which authorizes the filing of documents in forms other than hard copy.

The automation of various processes by the National Customs Service also deserves mention. These arrangements streamline customs clearances by transmitting information via remote means and providing for its corresponding validation in various databases. Chile's participation in APEC, WTO and the World Customs Organization (WCO) has been a major force in efforts to modernize Chile's customs service. The most important regulatory provisions in this area include Law 19479, which modifies the Customs Ordinance and the Organic Law of the National Customs Service. It also sets management and personnel standards through instruments such as Decree with force of law 30 of 2005, by virtue of which the National Customs Service is implementing a system of electronic payment for duties, taxes, fees and other payments received by the customs service.

Chilean regulations have also incorporated advances in recognizing and developing computer applications for judicial purposes, through: (i) Santiago Appeals Court Procedural Ruling (*Auto Acordado*) on the electronic docket management of cases covered by the criminal procedures reform of 30 May 2005; (ii) San Miguel Appeals

Court Procedural Ruling on the electronic docket management of cases covered by the criminal procedures reform of 13 June 2005; (iii) the Procedural Ruling of 28 July 2005 on electronic docket management of cases in appeals courts and in the Supreme Court; (iv) the Procedural Ruling of 17 October 2006 on the Use of Electronic Documents and Signatures by Notaries, Registrars and Judicial Archivists; and (v) the Procedural Ruling on the use of electronic files in court proceedings.

D) Colombia

Various provisions in Colombia's regulatory framework recognize the use of data messages and electronic means, specifically, electronic signatures and digital certificates issued by providers of governmental and/or private certification service providers, which have full legal validity.

In the area of electronic transactions and signatures, Law 527 of 1999, the Electronic Commerce Act, incorporates a number of provisions from the UNCITRAL Model Laws on Electronic Commerce and Electronic Signatures. The Colombian law authorizes the use of data messages in electronically executed commercial operations, and covers, among other things, the authenticity, integrity, originality and preservation of electronic documents. It also recognizes the use and evidential value of digital signatures backed by digital certificates issued by certification service providers.

Law 527 also establishes that no administrative or judicial action shall deny the effectiveness, validity or binding and evidential value of information provided in the form of data messages based solely on the form of such messages or on the fact that they are not presented in their original form. The evidential value of data messages is determined pursuant to the relevant provisions of the Code of Civil Procedure. Colombia has signed the United Nations Convention on the Use of Electronic Communications in International Contracts (2005), although it has not yet been ratified.

Decree 1747 of 2000 provides partial regulation, under Law 527 of 1999, of certification bodies, certificates and digital signatures, distinguishing between closed and open certification entities. The former limit their services to exchanging messages with subscribers, without remuneration, while the latter provide services that do not carry this limitation, and they receive remuneration. The Superintendency of Industry and Commerce is responsible for authorizing their operation and determining the conditions governing their provision of services.

Law 962 of 2005 bears on administrative matters, containing provisions to rationalize administrative procedures and formalities in State entities and in private entities that carry out public functions or provide public services. It includes a number of measures to facilitate the relationship between private persons and government, as well as various guiding principles for policy in the areas of rationalization, standards and automation of procedures to prevent the imposition of unjustified requirements on users. The measures include enhancing technology to articulate public administration activity

and reduce the time and cost of formalities to users. They also provide incentives for the use of integrated technological tools, for which purpose the law authorizes the Administrative Department of Public Service, in coordination with the Ministry of Communications, to oversee the technical support needed by government agencies. Electronic invoicing is one of the services that is based on this law.

In addition, Law 588 of 2000, which regulates notarial activity, authorizes notaries and consuls, approved for the purpose by the Superintendency of Industry and Commerce, to act as certification entities as described in Law 527 of 1999. They are permitted to transmit to other notaries or consuls—in the form of data messages, through electronic, optical or other such means—copies, certificates and records of documents that are in their files. Under the law, the resulting documents are considered authentic.

The Tax Statute regulates the use of electronic invoices and documents equivalent to sales invoices. Decree 1929 of 2007, which establishes regulations under Article 616-1 of the Tax Statute, defines the concept of electronic invoicing and sets rules on various aspects of issuing electronic sales invoices, as well as on their validity, authorizing persons required to carry out this function to do so through electronic means.

In the area of consumer protection, the Colombian Constitution protects consumers against being supplied goods and services that constitute a threat to their health or safety. It also recognizes consumers' right to efficient public services. Law 73 of 1981 governs how the State may intervene in the distribution of goods and services in order to protect consumers. This law is complemented by Decree 1441 of 1982, which regulates the organization, recognition, and monitoring and control regime of the countries' consumer groups and associations. Decree 3466 of 1982, the Consumer Statute, regulates matters related to suitability, quality, guarantees, trademarks, legends, advertising and governmental price setting for goods and services, as well as the liabilities of producers, dealers and providers.

With regard to the protection of personal data, Law 1266, the Habeas Data Act, regulates the handling of personal information contained in databases—particularly financial, credit, commercial and services-related information—as well as information from other countries. The purpose of the law is to guarantee the right of all persons to have access to, update and correct information regarding themselves in databases, along with the other constitutional guarantees, rights and freedoms relating to the collection, processing and circulation of personal information. This legislation applies to all personal information in databases, whether administered by public or private entities, without prejudice to the special standards regulating different types of entities. Intelligence databases produced for the State are exempt from this law in defence to the foreign and domestic national security interests of Colombia, as are data maintained for personal or domestic use and data that circulate solely on an internal basis, i.e., that are not provided to other juridical or natural persons.

The principal rights recognized by this law include the "right of expungement", understood as the right of persons on whom there is data relating to payment

delinquencies, collections, portfolio status, as well as data relating generally to failure to meet obligations, to have such data expunged four years from the date on which the overdue amounts are paid or from the date on which the overdue obligation is met. Once this term has elapsed, the information must be removed from the databases of the entities maintaining such information, thus ensuring that users will not have access to such information maintained by credit agencies. The law has a special title regulating complaints and requests to access data.

In the area of intellectual property rights, the Andean Community's supranational regulatory framework is deserving of note—specifically, Decision 351 of 1991, the Common Copyright and Related Rights Regime, which protects the right of authors and other rights holders to literary, artistic and scientific works of the imagination, including computer programs, regardless of their type or form of expression, or their artistic merit or purpose. It also protects copyright-related rights of performers, producers of phonograms and broadcasting organizations in member States. In the domestic realm, Law 23 of 1982 addresses copyright, Decree 162 of 1996 provides for regulation under Andean Decision 351, and Law 44 of 1993 relates to collective management bodies overseeing copyright and related rights.

Colombia has also signed the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), as well as the Berne Convention for the Protection of Literary and Artistic Works, the Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, and the Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite.

Colombia has also signed the TRIPS Agreement, which is administered by the WTO.

Under Law 1065 of 2006, Colombia's ".co" domain is administered by the University of the Andes by delegation of IANA. It is governed on a "first come, first served" basis, as set forth in the regulations for the functioning of ".co" domain names. Pursuant to its authority under Law 1065, the Ministry of Communications adopted the Internet Corporation for Assigned Names and Numbers (ICANN) Uniform Domain-Name Dispute-Resolution Policy (UDRP).

In the area of customs operations, Decree 4149 of 2004 creates a Single Window for Foreign Trade, which is administered by the Ministry of Commerce, Industry and Tourism, and uses electronic means, through which the administrative entities concerned with foreign trade operations share information for the purpose of granting authorizations and permits related to the importation and exportation of goods. The Single Window for Foreign Trade provides for digital signatures and electronic payments based on XML documents, which are used to digitize documents and administrative procedures connected with advance import and export authorizations.

In the criminal area, Law 1273, which modifies Colombia's Penal Code, defines as protected legal assets the information and data preserved entirely in systems that utilize information and communication technologies. It adds a section "for the protection of information and data", and defines various crimes, such as illegal access to computer systems, illegally impeding the functioning of such a system or of a telecommunications network, intercepting computer data, damaging computer systems, using malicious software, violating personal data and accessing websites to obtain personal information—conducts considered to violate confidentiality and interfere with the integrity and availability of data and information. The law also provides sanctions for theft using information technology media and for unauthorized transfer of assets through such media.

E) Cuba

The development of electronic commerce in Cuba—through the deployment of technological infrastructure and a regulatory system to support it—represents an important opportunity for exploiting the economic benefits of ICT. The regulatory measures adopted by the Cuban government to develop electronic commerce include Resolution 61/2002 of the Central Bank of Cuba, which establishes Standards for Collections and Payments of Electronic Commerce Transactions.

In the area of data protection, Ministry of Information Technology and Communications (Ministerio de la Informática y las Comunicaciones de Cuba, or MIC) Resolution 57/1996 created the National Registry of Electronic Information for Data Networks, and MIC Resolution 188/2001 established the Methodology for Access by Cuban Entities to the Internet and to Other Foreign Data Networks, while Resolution 204/1996 of the Ministry of the Steel and Mechanical Industry (Ministerio de la Industria Sideromecánica, or SIME) established rules governing the Protection and Technical Security of Information Systems. In the intellectual property rights area, Joint Resolution 1-99, of the Ministry of Culture (MINCULT) and SIME, governs software copyright protection.

With regard to regulations on domain names, MIC Resolution 124/2000 deals with the Registration of Internet Protocol (IP) Addresses for the Republic of Cuba. The regulatory proposals currently under review include a decree law entitled "General Standards for the Practice of Electronic Commerce", which incorporates provisions regulating the transmission and reception of data messages, legal business carried out electronically, protection of personal data, activities of certification and registration authorities and of entities that carry out certification and registration functions, as well as certification registries. A Penal Code reform is also under review, and would cover various cybercrimes, as well as a reform of the Copyright Act (Law 14).

F) Ecuador

A new Constitution was approved in Ecuador on 28 September 2008. It addresses various areas that will affect the development of the information society, including issues related to electronic commerce. First, it recognizes a basic right to free, intercultural communication that is inclusive, diverse and participatory, in any medium or form, as well as universal access to information and communication technologies. It guarantees all persons the right to seek, receive, share, produce and disseminate information without prior censorship, and prohibits the dissemination of advertising that violates these rights.

In the legislative realm, with regard to electronic transactions and signatures, the Electronic Commerce, Electronic Signature and Data Message Law (Ley de Comercio Electrónico, Firmas Electrónicas y Mensajes de Datos, or LCE)—Law 2002-67—is based on the UNCITRAL Model Law on Electronic Commerce, as well as on the European Council's electronic signatures Directive. This legislation regulates various areas, such as electronic contracting and the provision of electronic services, including electronic commerce. It assigns data messages the same legal status as that of written documents, and electronic signatures the same status as handwritten signatures. It also regulates the requirements for what information must be contained in a data message in order for it to be considered original. The law authorizes the digitization of documents, provided that the digitized documents contain duly certified electronic signatures. It also sets rules regarding the provenance of data messages, as well as on the time and place of their issuance and receipt. Furthermore, it defines the requirements that must be met by electronic signatures and electronic signature certifications, as well as the obligations and responsibilities of accredited information certification entities. It recognizes data messages, electronic signatures, electronic documents and domestic or foreign electronic certificates as evidence, and recognizes electronic notification for judicial purposes, establishing administrative and criminal sanctions for failure to observe such provisions.

Decree 3496-2002, which establishes regulations under the LCE, covers areas such as the procedure by which parties accept the content of a data message incorporated by reference through a hyperlink. It sets the requirements that must be met for a data message to be considered accessible for later consultation, and assigns this form of data the same value as a written document. It also specifies the elements and principles governing electronic signature infrastructure and the operation of information certification entities, as well as those governing services that provide time stamps.

The rules for accreditation, registration and regulation of entities authorized to provide information certification and related services (Resolution 584-23-CONATEL-2003) establish the standards and processes applying to the provision of information certification services, the issuance of electronic signatures and electronic signature certificates, and the registration of data and time stamps. It also provides more detailed rules on the operation of public key infrastructure.

In the area of electronic transactions by government entities, the Organic Law of the National Public Contracting System (Registro Oficial no. 395) regulates electronic contracting procedures in these entities, and provides the legal basis for the National Public Contracting System (Sistema Nacional de Contratación Pública, or SNCP) which operates the web portal (www.compraspublicas.gov.ec) for State procurement of goods and contracting of services. It establishes the requirements to be met by providers engaging in electronic bidding for State business and in electronic reverse auctions. Decree no. 258 of 2007 creates the SNCP and promotes the interconnection of technological platforms between related services and agencies, with a view to developing a system of electronic auctions.

In the financial area, Executive Decree 1553-2006, which governs direct electronic transfers to the accounts of beneficiaries registered in the nation's financial system, includes rules for alternative payment, by public sector institutions, of wages to public servants and payment of all obligations acquired, as well as legally binding advance payments, through the Interbank Settlements System (Sistema de Pagos Interbancarios, or SPI) of the Central Bank of Ecuador.

In the consumer protection area, the Constitution states that persons have the right to goods and services of optimum quality, and the right to select them freely, as well as the right to receive accurate and non-deceptive information on the content and characteristics of the goods or services. It also mandates legal quality control mechanisms and consumer protection procedures, as well as sanctions for violating the established rights. Providers are required to remedy deficiencies and indemnify consumers for damages and for poor-quality goods and services they provide, as well as for the interruption of public services not due to acts of God or *force majeure.*

The Organic Consumer Protection Act (Ley Orgánica de Defensa del Consumidor, or LODC) (Law 2000-21) establishes consumers' right to the protection of their life, health and safety as consumers of goods and services, as well as their right to protection from misleading or abusive advertising. It also includes the right to receive appropriate, truthful, clear, timely and complete information on goods and services. It does not specifically regulate electronic commerce operations, although the LCE does so.

Under the LCE, before a consumer or user indicates his/her acceptance of electronic records or data messages, he/she must be informed clearly, precisely and satisfactorily regarding the equipment and programs needed for access to the records or messages. In addition, the law establishes requirements for providing consumers information on electronic commerce operations, including advertising and promotions, and regulates mechanisms for excluding consumers from lists, message chains and databases in connection with sending data messages with information of any type.

In the area of privacy and personal data, the Constitution protects the right of persons, in all circumstances, not to have information concerning them demanded or used without their authorization, including information on their religious beliefs or associations, or their political thought, as well as data on their health and sexual life,

except as necessary for medical care. It also guarantees persons' right to their good name, and establishes all persons' right to examine and have access to documents, genetic data, reports, databases and files containing personal information on themselves or their assets, regardless of whether the information is held by public- or private-sector entities and whether it is in physical or electronic form. It also recognizes the right of those to whom information applies to know of the use, purpose and destination of any dissemination of the information. Persons responsible for databases containing personal information may disseminate the archived information with the authorization of the person to whom it applies, or if required by law to do so.

Under the Constitution, the person whose data is being maintained may request that the party responsible for handling it provide him/her access to the relevant files without charge, and that he/she be permitted to update, correct, delete or annul the data. When sensitive information is involved, the information may not be archived without authorization by the person whom it concerns, and security measures are mandatory. The Constitution also recognizes the inviolability and confidentiality of physical and virtual correspondence, which cannot be held, accessed or examined, except in cases provided for by law or through judicial intervention, and, in any circumstance, carries the obligation to preserve the confidentiality of matters other than those that are the object of the examination.

Under the LCE, the confidentiality and non-disclosure of data messages must be protected. The law makes punishable any violation—through electronic intrusion, illegal transfer of data messages or violation of professional confidentiality—of these principles. It also states that preparing, transferring or using data bases compiled directly or indirectly from the use or transmission of data messages requires the express consent of the person to whom the data apply, unless they are derived from publicly available sources. The person to whom the data apply has the right to decide what information will be shared with third parties.

Under the Organic Law of the National Public Contracting System, data provided to the portal at www.compraspublicas.gov.ec are considered confidential, and may only be used for the purposes for which they have been provided.

The Special Telecommunications Act and the legislation reforming it (Law 184 of 1992), as well as the General Regulations associated with it, guarantee the right to the confidentiality and privacy of telecommunications, and prohibit interception, interference, publication or dissemination of the information thus communicated, without the consent of the parties.

The LCE addresses the issue of cybercrimes and, to this end, modifies certain aspects of the Penal Code. It regulates and provides sanctions for ICT-related acts deemed to be administrative or criminal violations. Prohibited conduct includes gaining unauthorized access to computer systems, and breaching passwords or security systems in order to obtain information stored in them. It also provides sanctions for those obtaining or communicating personal information without the authorization of the person to whom

the information applies, as well as sanctions for persons falsifying information or data messages by altering the information for purposes of profit or to cause harm to a third party. It also sanctions anyone maliciously destroying information contained in computer systems or illicitly appropriating property, assets or rights of others using electronic means.

In the area of intellectual property rights, the Ecuadorian Constitution guarantees the right of persons to develop their creative capacities, to engage, in an ongoing and appropriate fashion, in cultural and artistic activities, and to enjoy protection of the moral and patrimonial rights associated with their scientific, literary or artistic productions. In the international sphere, Ecuador has signed the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, and has ratified the WTO TRIPS Agreement. It has also signed the Berne Convention for the Protection of Literary and Artistic Works, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, and the Universal Convention on Copyright and the Common Regime on Copyright and Related Rights regulated by Decision 351 of the Commission of the Cartagena Agreement, which applies in all of the Andean Community countries.

In the context of national legislation, the Intellectual Property Rights Act is consistent with international treaties and protects: copyright and related rights; industrial property, including inventions; industrial drawings and models; integrated circuit diagrams; confidential information and commercial and industrial secrets; trademarks for manufacturing, business and services, and commercial logos; distinctive aspects of the appearance of businesses and commercial establishments; commercial names and geographical indications, and plant varieties. In the area of copyright, there are provisions for the protection of computer programs and databases.

NIC.ec is the entity responsible for administering the ".ec" domain, through IANA. The NIC.ec policies include conflict resolution for disputes over domain names through arbitration procedures established in the ICANN Uniform Domain-Name Dispute-Resolution Policy.

In the area of taxation, both the Tax Code and the LCE establish the validity of electronic notification. The LCE defines the concept of electronic invoices. A pilot electronic invoicing programme targeting small and medium enterprises (SMEs) is underway, with World Bank-Multilateral Investment Fund (MIF) funding, designed to improve the efficiency and competitiveness of enterprises. In addition, Domestic Tax Service Resolution 1065 of 2002 authorizes taxpayers to submit certain tax statements via the internet, and to make payments online. The Ecuadorian Customs Corporation has implemented an Interactive Foreign Trade System (Sistema Interactivo de Comercio Exterior, or SICE), which facilitates imports and exports through the use of electronic means.

G) Mexico

Mexico has no specific electronic commerce legislation. Rather, a number of civil, mercantile, administrative and tax laws have been reformed to provide for the use of data messages and electronic means—specifically, electronic signature, advanced electronic signature and digital certification furnished by governmental and/or private-sector providers of these services—and to recognize their legal validity in contracts made by enterprises, consumers or government entities.

In the area of civil law, Mexico's Federal Civil Code allows parties to express their will remotely, and makes handwritten and electronic signatures functionally equivalent. Moreover, the Federal Code of Civil Procedure allows data messages to be presented as evidence, and sets rules for establishing their evidential value.

In the mercantile area, the Code of Commerce contains a special chapter on e-commerce, incorporating much of the content of the UNCITRAL e-commerce and electronic signature model laws. The Code of Commerce regulates, among other matters, electronic signature, advanced electronic signature, certification services, and the admissibility of data messages as evidence at trial. The Credit Institutions Act allows financial institutions to provide their services via electronic means. The Federal Consumer Protection Act includes a special chapter with rules governing consumers' rights when executing transactions electronically. It recognizes ethics codes as valid self-regulatory mechanisms that can serve as a basis for seal of trust systems, consistent with international best practices, such as the AMIPCI seal of trust. This system is part of the Asia Pacific Trustmark Alliance that operates in the Asia-Pacific region and is consistent with the APEC Privacy Framework.

In the area of public administration, the Federal Administrative Procedures Act, the Procurement, Leasing and Public Sector Services Act and the Public Works and Related Services Act all provide for electronic means as a medium for interaction with the federal government, through systems that use advanced electronic signature backed by digital certificates, both in administrative contexts and in government contracting.

In the area of tax law, the Federal Tax Code, the Customs Act and the Social Security Act allow tax authorities to use electronic means in a variety of procedures, processes and documents, including digital tax receipts. These laws recognize handwritten and electronic signatures as functionally equivalent, and set forth rules governing the use of advanced electronic signature backed by digital certificates. The provisions of these laws are given more detailed treatment in administrative regulations issued by the federal executive branch.

There is no general law covering the protection of personal data. However, article 6 of the Constitution recognizes such protection as a fundamental right, and a number of sectoral laws, such as the Federal Transparency and Access to Public Government Information Law, the Credit Institutions Act and the Federal Consumer Protection Law include measures protecting individuals from false or inaccurate personal information.

In the intellectual property rights area, Mexico has made protection of computer programs part of its Federal Copyright Act, as well as protecting the right to the exclusive use of news headlines on the internet. Moreover, Mexico's Federal Penal Code defines a number of crimes related to unauthorized reproduction and large-scale marketing of works protected by copyright.

Mexico has also signed the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, as well as the Berne Convention for the Protection of Literary and Artistic Works, the Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations and the Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite. It has also signed the TRIPS agreement, which is administered by the World Trade Organization (WTO).

In the area of domain names, NIC Mexico has made the arbitration process provided for by the Internet Corporation for Assigned Names and Numbers (ICANN) part of its Uniform Domain-Name Dispute-Resolution Policy (UDRP), and it recognizes the WIPO Arbitration and Mediation Centre as a provider of arbitration services.

In the criminal law area, the Federal Penal Code defines crimes related to intercepting communications, gaining illegal access to computer systems and causing IT-related harm, while the Credit Institutions Act defines a number of crimes of fraud employing electronic means. In the area of criminal procedures, progress has been modest. The Federal Telecommunications Act created a National Mobile Telephone Users Registry, and requires all concessionaires operating public networks to keep records of their users (both rate-plan clients and those using prepaid plans). This information must be supplied to the Office of the Federal Prosecutor or to state prosecutors' offices when they are investigating crimes involving any form of extortion, threats or kidnapping, or felonies involving organized crime.

In addition, one of the issues faced by Mexico in the development of e-commerce is the lack of harmonization in the substantive and procedural laws of the 32 states. Thus, there are various—sometimes mutually incompatible—criteria and public policies in place in this regard.

H) Paraguay

Paraguay has no specific legislation on electronic commerce, but current law provides a legal basis for certain electronic transactions. Relevant legislation in this regard appears in the Civil Code, the Consumer Protection Act, the Public Contracting Act and the legislation modifying it, the Code of Civil Procedure and the Customs Code.

The Civil Code recognizes the autonomous will of parties entering into contracts. It makes electronically executed contracts valid if the parties so agree, and defines rules governing the formation of contracts, which apply to both contracts between parties that are physically present and those between parties that communicate remotely. It also regulates the form of contracts and designates prescribed time periods and place of execution. The Aeronautics Code allows contracts for passenger transportation to be made electronically, and Law 1627/2000, by which Paraguay ratified the International Air Transportation Convention, allows electronic means to be used in both freight and passenger transport contracts.

In the area of public administration, the Public Contracting Act allows electronic means to be used for bidding, and regulates electronic procedures. The Law on Trademarks permits agents to certify their representation via e-mail, provided that they supply the original document within 60 days. Central Bank of Paraguay Resolution 5/07 allows banks to send account statements by e-mail to card holders who so request.

The Fiscal Adjustment Law allows sworn statements to be submitted electronically, and makes the password used for tax procedures equivalent to a handwritten signature. Resolution 568/06 establishes general responsibilities and conditions surrounding the use of electronic means to submit tax information. In the area of criminal law, the Code of Criminal Procedure allows notification of rulings to be made via fax. The Customs Code regulates electronic procedures and assigns them the same legal and evidential value as traditional procedures. In addition, the Automobile Registration Act allows for telematic transmission of databases, and Regulatory Procedure 117/87 implements the *folio real* (registry of real property) in the General Directorate of Public Records, permitting information and documentation to be handled by an integrated microfilm and electronic data processing system.

Technical Registry Provision 03/2006 implements electronic processing of requests for registration of merchants' licenses, while Regulatory Procedure 538/08 and Technical Registry Provision 2/08 authorize the operator of the Single Window for Establishing Enterprises remote access to the registry and payments system (*mesa de entrada y salida)* for the purpose of registering enterprises and collecting legal fees online. Executive Decree 580/08 authorizes online access to the shared folder for the Employer Registry at the Single Window for Establishing Enterprises, while Resolution 48/08 of the Social Welfare Institute approves electronic verification of requirements and provisional registry of enterprises at the Single Window of the Unified System for Establishing Enterprises (Sistema Unificado de Apertura de Empresas, or SUAE). Resolution 1.827/08 of the Municipality of Asunción provides for electronic verification of compliance with requirements for commercial business licenses through the SUAE single window. With regard to the evidential value of electronic documents, the Code of Civil Procedure provides for evidence to be freely utilized, based on principles of sound judgment, thus permitting data messages to be submitted as evidence.

In the area of electronic signature, Law 2.051/2003, the Public Contracting Act, regulates the certification of electronic means of identification for the purpose of public

sector contracting. With provisions on the use of electronic means in government administration, Law 2421/04, dealing with the subject of fiscal adjustment, requires the Under-secretariat of Taxation (Sub-Secretaría de Estado de Tributación, or SET) to maintain, and regularly update, a web page to inform taxpayers of its services and of taxpayers' tax obligations. Currently, the Tax Administration provides for taxpayers to submit sworn tax statements electronically, and to print the Taxpayer Registration Number (Registro Único de Contribuyente, or RUC) form, along with other procedures. SET General Resolution 4/07 defines the process for obtaining the password needed to conduct online procedures. The rules even allow taxpayers to complete the form and submit it via the internet, using the menu on the SET website. Annex II of the resolution establishes that use of the SET passwords is equivalent to handwritten signatures.

Of note in regard to electronic signature is Central Bank of Paraguay Resolution 14/08, which authorizes insurance companies to use faxed signatures and encrypted security codes to issue insurance policies. A number of bills on digital signature have been submitted to the Chamber of Senators, based on the UNCITRAL Model Law on Electronic Signature. In addition, the Republic of Paraguay has signed the United Nations Convention on the Use of Electronic Communications in International Contracts (2005), although the convention has not yet been ratified.

MERCOSUR Resolution 34/06 has also been signed, approving the Guidelines for Agreements on Mutual Recognition of Advanced Electronic Signatures, while Resolution 37/06 recognizes the legal validity of electronic documents, electronic signatures and advanced electronic signatures. These resolutions have not, however, been incorporated in Paraguay's substantive law.

In the area of consumer protection, Law 1334/98, the Consumer and User Protection Law, establishes rules to protect consumers' dignity, health, safety and economic interests. The rights defined in this law are not subject to waiver, transaction or conventional limitation by consumers, and override any legal provision, usage, custom, practice or stipulation to the contrary. The law regulates all acts between providers and consumers for the distribution, sale, purchase or other form of commercial transaction involving goods and services. In the telecommunications realm, Law 2340/03 expands the scope of Law 1334/98, adding a special chapter on telecommunications services, the principal elements of which include the obligation to provide information that permits consumers to identify providers, and the obligation to furnish transparent billing information.

Of note at the international level is the Santa María Protocol, which Paraguay ratified via Law 1.081 of 07/97. This legislation recognizes the jurisdiction of the courts of the State in which a consumer is domiciled. Also notable are MERCOSUR Resolution 21/04 (Consumers' Right to Information in Commercial Transactions Made via the Internet) and MERCOSUR Resolution 45/06 (Consumer Protection—Misleading Advertising). Paraguay has signed these resolutions, but they have not yet been incorporated in its domestic substantive law.

The Paraguayan Constitution recognizes privacy and protection of personal data as fundamental rights, in accordance with the Pact of San José, Costa Rica, which guarantees the right to personal and family confidentiality, respect for individual privacy and dignity, as well as an individual's private image. The Constitution also recognizes *habeas data* as a fundamental right entitling all persons access to any information and data on themselves or their assets contained in governmental records or in private records of a public nature, and establishes the right to be apprised of the use and purpose of such information.

Habeas data gives the person to whom personal data refer the right to request updating, correction or removal of erroneous data or data that illegitimately jeopardize the person's rights. In addition, Law 1682, which governs information of a private nature, and which has been modified by Law 1969/02, establishes rules on the storage, collection, processing and publication of data of a private nature. This law is general in scope, and is not limited to electronic databases. It authorizes the publication and dissemination of data consisting of an individual's first and last names, identity document, domicile, age, date and place of birth, marital status, occupation or profession, place of work and work telephone number, which are considered to be public personal data.

The Penal Code provides monetary sanctions for causing harm to a person's privacy. Law 3.519/08 (Protection of Evidentiary Data Requested by Health Authorities for the Approval of Phytosanitary Products) protects undisclosed information and evidence related to pharmaceutical products and agricultural chemicals.

In the area of IT-related crime, the 1997 Penal Code introduced a number of provisions on crimes committed by electronic means, defining these in sections on "punishable acts against personal assets" and "punishable acts against legal relationships". The Code provides sanctions for crimes involving the alteration of data, sabotage of computers, and the use of computers to commit fraud. In addition, it provides punishments for a number of crimes concerning pornography that involves children or adolescents.

Law 2134/03 approved the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography. In addition, Law 1.680/01, the Childhood and Adolescence Code, prohibits using children and/or adolescents in sexual commerce, as well as selling or providing children or adolescents with pornographic materials, video games categorized as harmful to their integral development, or unfiltered internet, which, in all circumstances, must have security mechanisms administered by the Municipal Advisory Council for the Rights of Children and Adolescents (Consejería Municipal para los Derechos del Niño, Niña y Adolescente, or CODENI). Ordinance 259/06 of the Municipality of Asunción requires anyone offering internet services to the public, whether commercially or on a nonprofit basis, to institute internal security and filtering systems to prevent access to pornographic materials by children and adolescents. The Office of the State Prosecutor is creating a specialized unit on internet crime to combat online child pornography.

In the area of intellectual property rights, the Paraguayan Constitution guarantees authors, inventors, producers and merchants exclusive ownership of their works and inventions under the law. The principal legislation in this area includes Law 1.328/98 (Copyright and Related Rights), Law 1.294/98 (Trademarks), Law 1.630/2000 (Patents on Inventions), Law 868/81 (Industrial Designs and Models), Law 1.582/00, which approves the WIPO Copyright Treaty (WCT), and Law 1583, which approves the WIPO Performances and Phonograms Treaty (WPPT). In addition, Paraguay has ratified the Paris and Berne Conventions.

NIC.py is the entity responsible for administering domain names, while operational matters are handled by the Catholic University Digital Electronics Laboratory and the National Computer Centre at the National University of Asunción. There is no existing legislation on the legal nature of domain names; thus, this is essentially subject to the administrative regulations of NIC.py, which serves as coordinator of the domain names system but has no jurisdictional authority. It does not act as a mediator or arbitrator, and does not intervene in disputes over domain names. Disputes that are settled without recourse to the courts are subject to Law 1878/02 (Arbitration and Mediation).

In the tax and customs area, Paraguay has created a number of e-government services for government contracting, online tax collection and foreign trade. These services have come about through decisions by the specific agencies involved. Law 2.422/04 (the Customs Code) incorporates the use of computer systems, information technologies and automated processes in customs operations, as a means of simplifying procedures. It also allows the handwritten signatures required by the National Customs Service to be replaced by proper passwords or sign-ons, or by electronic signatures, as a means of substantiating administrative procedures carried out digitally. The Code recognizes passwords and electronic signatures as being equivalent to handwritten signatures for all legal purposes, and regulates the use of electronic procedures.

I) Peru

Of note in the area of electronic transactions is Law 27291, which modifies the Civil Code, providing that when, under the law, a particular procedure or signature is required to establish a party's will, the requirement may be satisfied via electronic, optical or any similar means, and that for the purpose of contracts executed remotely, offers, withdrawals, acceptances and all other contractual statements are considered to have been communicated when they arrive at the addressee's address. If they are transmitted by electronic, optical or other similar means, they are presumed to have been received upon receipt of a confirmation of delivery.

The law on digital signatures and certification, Law 27269 of 2000, establishes general guidelines regarding these mechanisms, as well as establishing the authority of the relevant government entities and the types of action to be taken by certification,

registration and verification entities. Under this legislation, digital signatures have the same force and legal validity as handwritten signatures or analogous manifestations of a party's will. It also recognizes certificates of digital signature issued by foreign entities.

The Regulation on the Digital Signatures and Certificates Law (Reglamento de la Ley de Firmas y Certificados Digitales, or RLFCD), Supreme Decree 052-2008/PCM, issued by the Presidency of the Council of Ministers, provides further regulation in this area. Based on provisions of the UNCITRAL Model Law on Electronic Signature, it was designed to regulate the use of electronic signatures as well as the regime governing use of the Official Electronic Signature Infrastructure (Infraestructura Oficial de Firma Electrónica, or IOFE) in both the public and private sectors. The Regulation designates the National Institute for the Protection of Competition and Intellectual Property Rights (Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual, or INDECOPI) as the responsible administrative agency, and assigns to the National Registry of Identification and Civil Status (Registro Nacional de Identificación y Estado Civil, or RENIEC) the additional roles of National Certification Entity for the Peruvian State (Entidad de Certificación Nacional para el Estado Peruano, or ECERNEP), Certification Entity for the Peruvian State (Entidad de Certificación para el Estado Peruano, or ECEP) and Registry and Verification Entity for the Peruvian State (Entidad de Registro o Verificación para el Estado Peruano, or EREP).

The regulations give digital signatures generated within the IOFE the same validity and legal force as handwritten signatures. They also make digitally signed electronic documents in the IOFE framework admissible as evidence in judicial and administrative proceedings. IOFE is a reliable, accredited system regulated and supervised by the relevant administrative entity, with legal and technical instruments that make it possible to generate digital signatures and provide various levels of security with respect to the integrity of electronic documents and the identity of their authors.

CRT-INDECOPI Resolution 030-2008 approved accreditation guidelines for digital certification entities, as well as for the entities responsible for registering and verifying data and those providing value-added services. The guidelines are based on the principles set forth in the Declaration of Lima, issued at the Sixth APEC Ministerial Meeting in Lima on 1-3 July 2005. That declaration approved Public Key Infrastructure (PKI) Guidelines and reflected the principles of the Privacy Standards Framework approved at the Sixteenth APEC Ministerial Meeting in Santiago, Chile on 17-18 November 2004.

Resolution 008-2003 of the National Supervisory Commission for Companies and Securities (Comisión Nacional Supervisora de Empresas y Valores, or CONASEV) approved the Peruvian Securities Market Network (MVNET) System Regulations, which regulate the transmission and exchange of documents and information through MVNET, using PKI technology. Natural and juridical persons subject to the Commission's supervision and control must use this network for providing any information and documentation required of them.

In the area of online governmental transactions, regulations provided by Law 27444, the General Administrative Procedures Act, include notification by electronic and other means that establish reliable confirmation of receipt and identification of the receiving party, provided that the user has expressly requested return receipt. It also authorizes the use of electronic means for communications within government. Under this law, users may request that information or documentation in connection with administrative processes be sent to them by remote means, and the law authorizes government agencies to comply with such requests.

Currently, the State Electronic Procurement and Contracting System (www.seace.gob.pe) permits the exchange and dissemination of information on government procurement and contracting, as well as allowing for electronic transactions.

At the same time, based on the RLFCD, the National Electronic and Information Technology Government Office (Oficina Nacional de Gobierno Electronico e Informática, or ONGEI) has the authority to supervise government agencies' plans for the implementation of administrative procedures by secure electronic means.

In the area of consumer protection, Legislative Decree 716, the Consumer Protection Act, establishes the right to information and provides for compensation by providers for failure to perform. It makes no explicit reference, however, to e-commerce operations.

Law 28493 of 2000, which regulates the use of unsolicited commercial e-mail (spam), establishes the rights of e-mail users, as well as the obligations of e-mail service providers. It also regulates unsolicited commercial e-mail, defines specific violations, regulates compensation and determines what agency has authority in this area. Supreme Decree 031-2005-MTC of 01/04/06 provides more detailed rules under this law.

Legislative Decree 1045, the Supplementary Law for the Consumer Protection System, has additional provisions to set labelling standards, prohibit price rounding and establish rules on consumer contracts and credit lines. It also requires providers to respond to and resolve consumer complaints within 30 days, and regulates remote promotional systems. Providers using call centres, telephone calling systems, cell phone text messaging systems or massive electronic messaging to promote products and services, as well as telemarketers, are required to ensure that their call lists exclude all telephone numbers and e-mail addresses that consumers have requested to be placed on INDECOPI's do-not-call list.

The Unfair Competition Suppression Act, passed into law by Legislative Decree 1044, regulates online publicity and makes INDECOPI responsible for sanctioning parties using the internet or other electronic means to disseminate information detrimental to the competitive process by misleading or confusing consumers.

In the area of intellectual property rights, Legislative Decree 822, the Copyright Act, incorporates in Peruvian law a number of measures in the Berne Convention, TRIPS

agreement and Decision 351 of the Commission of the Cartagena Agreement (which approves the Common Copyright and Related Rights Regime). The law protects authors of literary and artistic works, as well as rightsholders and those holding copyright-related rights. This legislation regulates collective bargaining organizations and protects the authors of databases in terms similar to those set forth in TRIPS. Legislative Decree 1076, which modifies Legislative Decree 822, incorporates the use of technological measures to protect works and information systems designed to manage rights. In the international context, Peru has signed the WIPO Internet Treaties, the WCT and the WPPT.

With regard to industrial property rights, Legislative Decree 823, the Industrial Property Law, incorporates a number of measures from Decision 344 of the Commission of the Cartagena Agreement (Common Industrial Property Regime for the Andean Countries), the Paris Convention for the Protection of Industrial Property and TRIPS. The law includes regulations of patents on inventions, certificates of protection, utility models, industrial designs, industrial secrets, trademarks, business names, commercial logos and denominations of origin. Important measures to combat piracy include Peru's Legislative Decree 1092, which approves international-border measures to protect copyrights and related rights, as well as trademarks.

In the area of domain names, the Peruvian Scientific Network is responsible for administering the Peruvian domain (.pe) and has incorporated the ICANN Domain-Name Dispute-Resolution Policies in its own dispute resolution policy. It recognizes the WIPO Arbitration and Mediation Centre and the Peruvian Cybertribunal as dispute resolution venues.

In the area of criminal law, Law 27309 of 2000 modifies the Penal Code to sanction certain computer crimes, including improper use of, or entry to, a database, a computer system or network or any part thereof in order to design, execute or alter structures, or to interfere with, intercept, access or copy information transmitted by or contained in a database. It also provides sanctions for alteration, damage or destruction of computer databases, systems, networks or computer programs. Penalties are greater if a violator uses confidential information obtained through his/her job to access a computer database, system or network, and when such violation poses a threat to national security.

In the tax area, Supreme Decree 135-99, the Tax Code, modified by Legislative Decree 953, provides for the Tax Administration to authorize the submission of tax statements through magnetic media, fax, electronic transfer or any medium that meets the conditions established by SUNAT. On this basis, SUNAT has developed telematic programs for submitting tax statements. Decree 809, the General Customs Act, governs customs activity involving persons, goods and modes of transportation crossing borders at customs points, and gives the Customs Service the authority to issue rules and establish procedures regulating the issuance, transfer, use and control of information through documents, or magnetic or electronic means, in order to carry out customs operations. The Ministry of Foreign Trade and Tourism is responsible for developing the single window system for foreign trade, in order to integrate electronic solutions in the export

and import supply chains, provide digital certificates of origin, and implement e-commerce provisions of the free trade agreements with the United States and Canada, as well as implementing commitments of the APEC Electronic Commerce Group regarding paperless commerce.

J) Uruguay

Uruguay has no comprehensive electronic commerce legislation, but does have laws concerning security, computer crime, privacy of personal data, consumer protection, intellectual property rights and taxation.

Addressing electronic transactions, Law 16879 endorsed the United Nations Convention on Contracts for the International Sale of Goods, which approves telephone, telex and other instantaneous modes of communication as means of indicating consent to contractual provisions. In addition, under Decree 174/005, MERCOSUR Resolution 17/04, which sets standards for computerization of international freight manifests and customs declarations, is incorporated in the country's domestic law.

Decree 134/005 contains rules on the marketing of animals in virtual auctions or on screen, and makes such operations subject to oversight by a health and hygiene official of the Animal Health Division of the Ministry of Livestock, Agriculture and Fisheries. Under the law, auction enterprises must obtain prior authorization from the Ministry in order to conduct such auctions.

In attempts to address the issues of electronic documents, electronic signatures and certification services, Law 18172 (Accountability and Rendering of Accounts and Balance of Budget Execution for Fiscal Year 2006) created the Registry of Certification Service Providers, as part of the Communications Services Regulatory Unit (Unidad Reguladora de Servicios de Comunicaciones, or URSEC), whose responsibilities include monitoring the quality and reliability of the services of certification service providers.

Law 17243 (Public and Private Services, Public Security and Conditions in which Productive Activities Take Place) regulates the use of electronic signature, digital signature, certification services and electronic procedures in the administrative context. It recognizes the use of digital signatures and their legal validity as instruments to provide security in electronic transactions by making it possible to identify the participating parties. Law 18237 authorizes the use of electronic procedures and documents, simple computer passwords, electronic signature, digital signature, electronic communications and established electronic domains in all judicial branch proceedings (both administrative proceedings and actual judicial proceedings).

Decree 382/003 centres on digital signatures, providing legal definitions of related elements, of which the most important are digital signatures, certification service providers and digital certificates. The law establishes the functional equivalence of digital

signatures and handwritten signatures, as well as conditions surrounding the use of digital signatures and the provision of certification services. Decree 65/998 authorizes government entities to employ information technology for administrative actions and official acts, and defines the concept of electronic procedures, giving them the same evidential value as traditional procedures.

In the consumer protection area, Law 17250 on consumer protections provides general rules on certain aspects of online commerce. It makes offers directed to either specific or indeterminate consumers—by any means of communication, if containing sufficiently precise information on the products and services offered—binding on the party making the offer and on the consumer expressly taking advantage of it, for the period of time during which the offer remains in effect. Under this law, an offer of products or services made outside the provider's place of business by mail, telephone, television, information technology media or similar means gives the consumer who accepts it the right to withdraw his/her acceptance or annul the contract on his/her own initiative within five business days of the execution of the contract or delivery of the product without incurring any liability. Among the provisions of Decree 244/000 was its setting of regulations, under Law 17250, establishing the procedure for lodging consumer complaints. In addition, Decree 246/005 incorporated MERCOSUR Resolution 21/004, which regulates consumers' right to information in online commercial transactions.

As regards the protection of personal information, Law 18331 both protects it and provides for *habeas data*, as well as recognizing the protection of personal data as a fundamental right and establishing a judicial process to protect the integrity of data. It also created a Unit to Regulate and Control Personal Data. Regulations under this law will soon be in place. In addition, the Code of Children and Adolescents includes provisions on confidentiality and constraints regarding the treatment of information on this group of persons.

While there is no specific law in the area of computer crime, there is legislation that covers various crimes of this type. Law 16736, the National Budget Law, makes using digital and telematic media to intentionally transmit an inaccurate document, or to alter or destroy a document stored in magnetic form (or its backup) legally equivalent to forging public documents—a crime defined in the Penal Code. Furthermore, Law 17815, which deals with sexual violence against children, adolescents or disabled individuals for profit or for other purposes, makes illegal the marketing and dissemination of pornographic material in any format that includes the image or other representation of minors or disabled or elderly persons.

Law 18383 (Attempts to Interfere with the Regular Functioning of Telecommunications) provides prison sentences for anyone interfering with the regular functioning of wired or wireless telecommunications. The country's criminal jurisprudence includes rulings on crimes related to fraud or deception conducted via the internet, software piracy, improper occupation of internet domains, etc.

Of note in the area of intellectual property rights is Law 9739 (Literary and Artistic Property), modified by Law 17616 (Copyright and Related Rights). This law protects the rights of artists, performers, producers of phonograms and broadcasting organizations with respect to their works and related rights, including the right to sell, reproduce, distribute, publish, translate, adapt, transform, communicate them or make them publicly available in any form or by any procedure. Other important legislation includes Law 18253, which approves the WIPO Performance and Phonograms Treaty and the Agreed Statements Concerning the WIPO Performance and Phonograms Treaty, and Law 18036, which approves the WIPO Copyright Treaty and the Agreed Statements Concerning the WIPO Copyright Treaty. Noteworthy in the area of trademarks are Law 17011 (Regulations Regarding Trademarks) and Law 17050, the Protocol for the Harmonization of Intellectual Property Norms in Relation to Trademarks, Geographical Indications and Denominations of Origin, currently in force in the countries of MERCOSUR.

With regard to domain names, Uruguay's NIC is administered by the Central Service for Legal Informatics (Servicio Central de Informática Jurídica, or SECIU), to which IANA—part of the University of the Republic—has delegated this responsibility. SECIU has assigned the administration of the ".com.uy" domain to the National Telecommunications Administration (Administración Nacional de Telecomunicaciones, or ANTEL). Domain name disputes involving ".uy" addresses are dealt with according to the arbitration rules of the Conciliation and Arbitration Centre of the International Arbitration Court for MERCOSUR, at Uruguay's Commodity Exchange. These incorporate a number of provisions of the ICANN Uniform Domain-Name Dispute-Resolution Policy.

Various provisions have been created in the area of taxes and customs, including Law 18.083, which provides exemptions from the income tax on economic activities (Impuestos a las Rentas de las Actividades Económicas, or IRAE) and income tax on physical persons (Impuestos a las Rentas de las Personas Físicas, or IRPF) for profits generated by the production of software and other developments in biotechnology and bio-informatics. Similarly, Decree 208/007 regulates exemptions from income tax on physical persons (IRPF) in the area of new technologies, while Decree 150/007 reiterates the Declaration of National Interest concerning international competition conditions with regard to the software-production sector, with exemptions from income tax on economic activities (IRAE) from the production of software, through 31 December, 2009.

Also notable are Decree 341/003, which establishes the system that provides for taxpayers to make sworn tax statements via the internet, Decree 148/002, which regulates predicting the results of international sporting events and games of chance via the internet, and Decree 506/001, which establishes a new regime governing international mail parcels resulting from e-commerce transactions. There have also been various decrees establishing industrial and commercial income tax (Impuesto a las Rentas de la Industria y el Comercio, or IRIC) exemptions, and VAT exemptions in the area of new technologies, particularly for software (Decrees 323/007, 207/007, 150/007 and 148/007).

K) The Bolivarian Republic of Venezuela

In the area of electronic transactions, the Data Messages and Electronic Signatures Act adopts various provisions of the UNCITRAL Model Law on Electronic Commerce, and recognizes the validity and legal value of electronic signatures, data messages and all intelligible information in electronic formats, independent of physical medium and whether derived from natural or juridical, public or private persons. It also regulates the operation of Certification Service Providers (CSPs) and the legal status of electronic certificates.

The Partial Regulations of the Decree Law on Data Messages and Electronic Signatures provide more detailed regulations on certain aspects of the law, particularly as relates to the accreditation of CSPs and the authorities of the Superintendency of Electronic Certification Services. They also establish rules that must be observed in handling the data involved in creating electronic signatures, which, once created by a CSP, must be delivered personally and immediately to the signer, while they also define security standards, plans and procedures to be followed by CSPs.

Of further note is the Decree declaring Internet access and use to be a priority policy for the cultural, economic, social and political development of the Bolivarian Republic of Venezuela.

In the area of e-government transactions, the Organic Public Administration Act requires government entities to use electronic, computer and telematic media, including web pages, for their organization, functioning and communications with persons. Under this law, documents reproduced by electronic, computer, optical or telematic media have the same validity and force as original documents, provided that they meet the requirements under the law and that their authenticity and integrity and the inalterability of the information they contain are guaranteed.

The Bidding Act permits the use of electronic means for this purpose, by establishing the principle of "not excluding or discriminating on the basis of technology", thus ensuring that the selection of contractors and contracting can be effected online. Decree with force of law 3.390, the Organic Law on Science, Technology and Innovation, establishes the obligation of the national government to give priority to the use of free open-source software.

The Public Registrars and Notaries Act encourages the use of technological media in these areas as being in the public interest, so as to streamline procedures for receiving, registering and publicizing documents without jeopardizing legal security, and gives registry entries and registry information from electronic means the full legal force of public documents. It also provides for digitization of all physical media used in the registry and notarial system, and for transferring this information to databases. The registry and notarial process is to be conducted entirely on the basis of electronic documents, and the electronic signature of registrars and notaries is to have the same evidential validity and force as the law gives to handwritten signatures.

In the area of consumer protection, the Law for the Protection of Persons in Accessing Goods and Services defines electronic commerce as any form of business, commercial transaction or exchange of information for commercial, banking, insurance or any such purpose executed through information and communication technologies of any type. It specifies that this applies only to transactions between providers and persons, and that it is without prejudice to any special laws. It also specifies various duties of providers in regard to furnishing reliable information, managing unsolicited electronic commercial messages, disseminating advertising that targets children, the elderly or the seriously ill, and providing information on any relevant self-regulation scheme, business association or dispute resolution organization to which the provider belongs.

In addition, this law establishes providers' obligation to permit consumers to select the information concerning them that is to be shared with third parties, and the obligation to employ secure payment mechanisms, as well as reimbursement procedures. It requires providers to acknowledge payments for purchases made via e-commerce through invoices to be sent immediately, using the same medium as was used for the sale. The entity responsible for supervision under this law is the Institute for the Protection of Persons in Accessing Goods and Services (Instituto para la Defensa de las Personas en el Acceso a los Bienes y Servicios, or INDEPABIS).

The Organic Telecommunications Law requires telecommunications services operators to respect users' rights, including the right to appropriate and non-deceptive information on the content and characteristics of internet services, as well as the right to freely select service providers, and mandates equitable treatment of consumers. Failure to observe these obligations can incur a fine and, for certain offences, can even lead to the revocation of the administratively granted authority to provide telecommunications services.

The Organic Law for the Protection of Children and Adolescents establishes preventive measures to insure against the production and sale of computerized, electronic or multi-media games considered harmful to the health or integral development of children and adolescents. It also prohibits using multimedia or networks to allow children and adolescents to view material with pornographic content, or content that condones violence, crime, or use of tobacco, alcohol or drugs.

As regards the protection of privacy and personal data, article 28 of the Venezuelan Constitution enshrines the right of all persons to information and data on themselves or their assets that appear in government or private records, except in cases specified by law, as well as their right to know how such information is used, and to be apprised of the purpose thereof, as well as to request the appropriate court to order the updating, correction or destruction of said information (*habeas data*) if it is erroneous or is unduly detrimental to their rights. Article 60 enshrines the right of all persons to protection of their honour, private life, privacy, image, confidentiality and reputation, and provides constraints on the use of information technology, in order to protect the honour and personal and family privacy of citizens, and the full exercise of their rights.

The Law for the Protection of Persons in Accessing Goods and Services provides that in electronic negotiations, providers must guarantee the privacy and confidentiality of data used in transactions, so as to limit access exclusively to authorized persons. Under Decree with force of law 3.390, the Organic Law on Science, Technology and Innovation, the Ministry of Science and Technology has the power to establish policies to safeguard, as inviolable, the privacy and confidentiality of electronic data obtained in the exercise of governmental functions.

In the administrative realm, the Administrative Procedure Establishing the General Conditions of Administrative Powers of 2006, issued by the National Telecommunications Commission (Comisión Nacional de Telecomunicaciones, or CONATEL), requires internet service providers to ensure the confidentiality and inviolability of private communications, and to adopt the measures needed to guarantee the protection and confidentiality of users' personal data. They must not use said data for purposes other than for providing their service, except upon receiving requests for information from the State's security agencies or other authorized government entities. Failure to observe these provisions incurs a fine and leads to the revocation of the authorities granted.

The Parliament is currently debating an information technologies bill designed to define the rules, principles, information systems, plans, actions, guidelines and standards applicable to information technologies used by governmental bodies and agencies. It also regulates various provisions to protect the privacy and confidentiality of the personal data of administrators in their dealings with the State.

Of note in the criminal area is the Special Law Against Computer Crime, the purpose of which is to provide comprehensive protection of systems that use information technologies, and to prevent and punish crimes against such systems or any of their components, or actions carried out with the use of said technologies. Among the crimes defined are improper access to computer systems, sabotage or damage to them, computer espionage and falsification of electronic documents. The law also defines sanctions for various crimes against property—in particular, crimes that involve obtaining information belonging to third parties in order to steal their property or assets. In addition, this law defines the crimes of fraud using information technologies, fraudulent use of smart cards, improper provision of goods or services and the possession of equipment for forgery.

The law sanctions violations of the privacy of personal data[2] or information, violations of the privacy of communications and the improper disclosure of personal data or information. It also provides sanctions for crimes against children and adolescents consisting of furnishing them access to pornographic material or of displaying pornographic images of children or adolescents. As crimes against the economic order, it punishes violations of intellectual property rights, as well as violations of consumers' rights through misleading offers.

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[2] The law refers to "data".

The law makes crimes committed outside the Bolivarian Republic of Venezuela punishable on Venezuelan soil when they have had effects in Venezuela and when the responsible party has not been tried for the action, or has evaded trial or sentencing by foreign courts.

In the area of intellectual property rights, the Bolivarian Republic of Venezuela has become a party to Decision 486 (Common Industrial Property Regime) and Decision 351 (Common Copyright and Related Rights Regime) of the Commission of the Andean Community. It has also signed the Berne Convention and the Rome Convention, as well as the WIPO Copyright Treaty (WCT) and WIPO Performance and Phonograms Treaty (WPPT).

In the legislative realm, the Industrial Property Law regulates the rights to industrial creations, inventions or discoveries of those who invent, discover or introduce products, as well as ensuring the rights of producers, manufacturers or merchants to phrases or special signs that they use to distinguish their products or activities from those of others. The law gives these rights holders the right to register trademarks, logos and business names, as well as patents, models and industrial drawings.

The Copyright Act protects creative works of the imagination, whether literary, scientific or artistic, in any genre or form of expression, and of any merit or for any purpose, as well as related rights. The law also protects databases and computer programs, along with technical documentation and user manuals.

In the area of domain names, CONATEL administers and manages the Network Information Centre of the Bolivarian Republic of Venezuela (NIC.ve), which is responsible for assigning ".ve" domain names, and which has adopted a domain-name dispute-resolution policy under which disputes can be settled through the WIPO Mediation and Arbitration Centre.

In the area of taxation, the Organic Tax Code provides for intensive use of electronic or magnetic media to receive, provide notification of and exchange documents, statements, payments, administrative acts, and general information. Thus, in administrative, adversarial or executive processes, the law makes certification of such documents, statements, payments or administrative acts by the tax administration valid, provided that it can be demonstrated that the receipt, notification or exchange of these has taken place through electronic or magnetic media. It also requires that when the tax administration receives tax statements, proof of payment, tax questions, funds or other procedures made possible by this technology in electronic or magnetic form, it must issue an electronic certificate specifying the documentation sent and the date of receipt, which shall be considered the effective starting date of the procedure in question. In no case will the handwritten signature of the taxpayer or authorized representative be required, and the tax administration is to establish the means and procedures for electronic authentication of taxpayers or their authorized representatives.

III. TOWARDS REGIONAL HARMONIZATION

The multiplicity of international, regional and subregional organizations in which the ALADI member countries participate has led to a proliferation of regulatory instruments and public policies. The result is a complex mosaic of regulations under which a country may be required to comply with provisions issued by different bodies, sometimes leading to: (i) tensions resulting from incompatible requirements; (ii) uneven development of regulations and public policy; (iii) duplication of efforts; and (iv) lack of coordination between international institutions, as well as between domestic government agencies.

A) e-LAC 2007 and e-LAC 2010 Regional Plans[3]

The Regional Plans e-LAC 2007 and e-LAC 2010, coordinated by ECLAC, are a fundamental part of the region's process of regulatory harmonization.

The Observatory for the Information Society in Latin America and the Caribbean (Observatorio para la Sociedad de la Información en Latinoamérica, or OSILAC) plays an important role in this process. It is sponsored by ECLAC and by the Institute for Connectivity in the Americas (ICA) of the International Development Research Centre (IDRC), and has become a venue for improving information on technologies that are part of the information society. OSILAC offers support for the production, collection, processing and dissemination of data, indicators and methodologies by normalizing and harmonizing ICT statistics collected at the subregional, national and local levels. It also helps to create interactive and participatory methodological and conceptual frameworks for ICT statistics in surveys conducted in the region's countries, while at the same time contributing to and benefiting from developments at the global level.

OSCILAC (i) has created a database with information on the principal indicators and statistics on the state of the technologies related to the information society; (ii) produces documents with statistical information on the state of ICT; and (iii) maintains ongoing contact with those responsible for the use of ICT statistics in the region's national statistical agencies, providing them with documents, maintaining a receptive and responsive attitude with respect to their methodological concerns, and compiling information on metadata included in the questionnaires and on data produced by the surveys.

B) Latin American Integration Association (ALADI)[4]

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[3] Available at: http://www.eclac.org/socinfo/elac/.
[4] ALADI includes Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay and the Bolivarian Republic of Venezuela. See http://www.aladi.org/.

The purpose of the Latin American Integration Association (Asociación Latinoamericana de Integración, or ALADI) is to encourage the creation of a preferential trade area in the region, in order to create a Latin American common market through a preferential tariff regime for the region, as well as to create regional or partial agreements covering a variety of issues. The Treaty of Montevideo functions as a framework treaty for ALADI, permitting its members to make agreements on issues of collective economic interest. ALADI is able to accommodate existing subregional, multilateral and bilateral integration agreements, as well as commitments under the Andean Community and MERCOSUR, and is attempting to consolidate a common economic space.

Among its most important activities in working to promote e-commerce and facilitate trade is a cooperation agreement, in the framework of the International Conference on Security and Trade Facilitation, that it signed in 2006 with the World Customs Organization (WCO). In addition, the ALADI Council of Ministers has adopted a number of resolutions to promote access to information technologies, encourage e-commerce and facilitate trade, emphasizing support for SMEs.

Of note are Resolution 54 of 11 August 2000 (Recommendations for Action by the Association) and Resolution 55 of 22 February 2002 (Measures to Strengthen ALADI's Role as the Principal Institutional Framework for Regional Integration) and Resolution 60 of 18 October 2004 (The Role of ALADI and its Functions in Developing and Consolidating the Regional Integration Process).

Also noteworthy is the work of the ALADI Working Group on Electronic Commerce and Information and Communication Technologies for the Promotion of the Digital Economy.

C) Organization of American States[5]—CITEL[6] and Red GEALC[7]

The efforts of the Organization of American States (OAS) and the Inter-American Telecommunications Commission (Comisión Interamericana de Telecomunicaciones, or CITEL) in the area of connectivity,[8] network security and computer crime have

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[5] OAS members include Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, the Plurinational State of Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay and the Bolivarian Republic of Venezuela. See http://www.oas.org/main/spanish/.

[6] CITEL is the specialized OAS body dealing with telecommunications. Available at: http://www.citel.oas.org/citel_e.asp.

[7] The Network of e-Government Leaders of Latin America and the Caribbean (Red de Líderes de Gobierno Electrónico de América Latina y el Caribe, or RED GEALC) was formed in 2003 by the OAS Executive Secretariat for Integral Development and the Institute for Connectivity in the Americas (IDRC/ICA), in order to promote horizontal cooperation among the Latin American and Caribbean countries, and to provide for sharing of solutions and experts. See http://www.redgealc.net/.

[8] The Connectivity Agenda for the Americas, presented at the International Telecommunications Union (ITU) World Telecommunications Development Conference in Istanbul, Turkey, in March 2002.

influenced the development of regulations in Argentina, the Plurinational State of Bolivia, Chile, Colombia, Ecuador, Mexico[9], Paraguay, Peru, Uruguay and the Bolivarian Republic of Venezuela.

The participation of the above-mentioned countries in the OAS-sponsored Electronic Government Network of Latin America and the Caribbean (Red de Gobierno Electrónico de América Latina y el Caribe, or Red GEALC) has promoted the integration of single window systems for the member countries.

D) Asia-Pacific Economic Cooperation (APEC) Forum[10]

In the context of the Asia-Pacific Economic Cooperation Forum, Chile, Mexico and Peru have participated in the Electronic Commerce Management Group (Grupo de Manejo del Comercio Electrónico, or GMCE) and the Subcommittee on Customs Procedures. In the GMCE context, these countries participate in the APEC Privacy Pathfinder project, and have proposed a scheme for protecting consumers' personal data based on the APEC privacy framework. The system brings together a multilingual technological platform, a number of seal-of-trust schemes and a cross-border privacy rules system in order to provide consumers safe and reliable mechanisms to ensure their rights vis-à-vis providers from any country participating in the project.

At the second working meeting of the Subcommittee on Customs Procedures in August 2008 in Lima, Peru, a number of the region's economies formulated proposals concerning: the Plan for Valuation Criteria for Advance Resolutions of the APEC Economies; the Single Window System for the Sale of Goods; the Security of the Customs Logistics Chain; and the New Customs Clearance Project, proposed by Peru's National Superintendency of Tax Administration (Superintendencia Nacional de Administración Tributaria, or SUNAT).

E) Ibero-American Data Protection Network[11]

With the participation of Argentina, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay and other countries, the Ibero-American Data Protection Network (Red Iberoamericana de Protección de Datos, or RIPD, sponsored by the Spanish Data Protection Agency, issued Directives to Harmonize Data Protection in the Ibero-

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[9] Mexico is the only Latin American country that is a member of the Organization for Economic Cooperation and Development (OECD).

[10] APEC includes Australia, Brunei, Canada, Indonesia, Japan, South Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, United States, the Chinese Province of Taiwan, Hong Kong (China), China, Mexico, Papua New Guinea, Chile, Peru, Russia and Vietnam. See http://www.apec.org/.

[11] The member countries are: Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Portugal, Spain, Uruguay and the Bolivarian Republic of Venezuela. See:
 https://www.agpd.es/portalweb/internacional/red_iberoamericana/index-ides-idphp.php.

American Community. These are based on European Parliament and European Council Directive 95/46/CE, which urges member countries to base their own regulations on the directives.

F) Andean Community[12]

Through the Andean Subregional Integration Agreement (also known as the Cartagena Agreement), the Protocol modifying the Cartagena Agreement, and the Sucre Protocol, the Plurinational State of Bolivia, Colombia, Ecuador and Peru reached an agreement designed to promote autonomous, faster and more balanced development for their subregion, and they have issued a number of decisions for regional harmonization that affect the development of e-commerce. These include the following:

(i) Decision 486 of the Commission of the Andean Community: Common Industrial Property Regime. This decision references the Paris Convention and is consistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). It protects patents on inventions, utility models, integrated circuit diagrams, industrial designs, trademarks, commercial logos, collective trademarks, certification marks, commercial names, labels and insignias, geographical indications (denominations of origin) and well-known distinctive signs.

It also regulates claims, actions for violation of rights, actions to halt unfair competition associated with industrial property rights, as well as all rights and obligations of those lodging such actions and the associated procedures.

(ii) Decision 351 (Common Copyright and Related Rights Regime). This decision protects all literary, artistic and scientific works that can be reproduced or disseminated, in any presently known of future form or medium. It clearly and specifically regulates rights and obligations, as well as procedures for registering and defending the rights acquired in relation to all types of intellectual, artistic or scientific creations, and for protection of the same, in order to preserve an environment of fair competition in the member countries. The decision protects computer programs in the same terms as literary works, and requires authorization by rights holders for reproduction of computer programs, even for personal use, except for backup purposes.

(iii) Decision 571 (Customs Value of Imported Goods). This decision recognizes the legal value of electronic declarations to customs authorities through electronic data transmission systems, using electronic signatures certified by customs authorities.

(iv) Decision 638 (Guidelines for the Protection of Telecommunications Users in the Andean Community).

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[12] See http://www.comunidadandina.org/.

(v) Decision 462 (Standards Regulating the Telecommunications Services Trade Integration and Liberalisation Process in the Andean Community).

CAN has joined with the European Union in signing the Framework Agreement for Cooperation between the European Economic Community and the Cartagena Agreement and its member countries, the Plurinational State of Bolivia, Colombia, Ecuador, Peru and the Bolivarian Republic of Venezuela.[13]

G) MERCOSUR[14]

Argentina, Brazil, Paraguay and Uruguay constitute the Common Market of the South (Mercado Común del Sur, or MERCOSUR). MERCOSUR's Working Subgroup 13 on Electronic Commerce has promoted negotiations to encourage cross-border electronic commerce through mechanisms that provide for the recognition of digital certificates between signatory States. The following resolutions have been adopted in this context:

(i) MERCOSUR/GMC EXT./RES. 37/06 recognizes the legal validity of electronic documents, electronic signature and advanced electronic signature in MERCOSUR, with a view to encouraging their use. It does not regulate legal acts or their validity, when they are subject to related requirements envisaged in national legislation. While the resolution does not provide for the free circulation of digital certification services within MERCOSUR, the signatory States are required to observe the provisions of the Protocol of Montevideo regarding trade in services in MERCOSUR, as well as specific commitments regarding the provision of digital certification services.

(ii) MERCOSUR/GMC EXT./RES. 34/06 provides guidelines on concluding agreements for mutual recognition of advanced electronic signatures in the MERCOSUR context. The resolution approves the guidelines for agreements on the mutual recognition of advanced electronic signatures in the framework of MERCOSUR. The guidelines will be monitored by Working Subgroup 13 (WSG 13), whose functions include sharing information, proposing guidelines, standards and operating procedures, analyzing national advances in this area, studying efforts to adapt national standards to the guidelines established in this resolution, and analyzing the applicability of harmonization criteria and the requirements applicable to digital certification. WSG 13 will promote studies to implement a common system of controls among the signatory States, with a view to harmonizing their respective infrastructures and procedures.

(iii) MERCOSUR/GMC/RES. 21/04 governs consumers' right to information in commercial transactions executed over the internet. It establishes the consumer's right, in electronic commerce transactions, to clear, accurate, sufficient and easily accessible information on the provider and on the product and service offered, as well as on the

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[13] The Bolivarian Republic of Venezuela withdrew from CAN in 2006. Similar agreements have been signed with the European Union, Chile and Mexico.

[14] Available at: http://www.mercosur.int/msweb/portal%20intermediario/es/index.htm.

electronic transactions involved, throughout the process of an e-commerce transaction carried out over the internet. It applies to all providers located or operating in any of the MERCOSUR countries.

(iv) MERCOSUR/GMC/RES. 45/06. This resolution protects consumers against misleading advertising, requiring that all advertising be transmitted and disseminated in a manner that allows consumers to immediately identify it as such, regardless of the communication medium used. It prohibits misleading advertising, which is defined as the dissemination of any type of information or advertising-related communication that is totally or partially false, or that in any other way, including by omission of essential information, could cause consumers in any of the countries to misconstrue the nature, characteristics, quality, quantity, properties, origin, price, marketing conditions or any other essential product and service information essential to a consumer's decisions with regard to a product or service.

The resolution stipulates that the burden of proof as to the truthfulness and accuracy of advertising information or communications resides with the advertiser. It allows each signatory State to require, on a national basis, that providers of products and services maintain factual, technical and scientific data supporting their advertising messages, so that legitimate interested parties will be able to examine them. It also allows each State to establish more stringent provisions with regard to consumer protections covered by this resolution, in order to provide higher levels of protection for consumers in its territory.

(v) The MERCOSUR Santa María Protocol 10/96, on international jurisdiction in issues of consumer relations, is of particular importance, inasmuch as it recognizes the jurisdiction of the courts of the State in which a consumer is domiciled.

Argentina's domestic law has incorporated Resolution GMC MERCOSUR 21/2004 on consumers' right to information in commercial transactions executed over the internet, as well as Resolution GMC 45/2006, which protects consumers from misleading advertising. Paraguay has also signed these resolutions, but has not incorporated them in its domestic law. Uruguay has incorporated Resolution 21/2004, and Paraguay has ratified the MERCOSUR Santa María Protocol 10/96 on international jurisdiction in matters of consumer relations.

H) MERCOSUR Digital project

The European Union is funding the MERCOSUR Digital project as a means of promoting MERCOSUR's economic integration, by encouraging e-commerce in Latin America and creating a virtual training centre. A further objective of the project is to promote common policies, strategies and capacities related to the information society, and to reduce digital inequalities and ICT asymmetries. It includes four dimensions:

(i) Continuing Virtual Education through a MERCOSUR Virtual School, with at least one facility per country, training 960 participants (240 in each country) in the specific areas established by each country.

(ii) Dialogue on regulatory policy to develop best practices, standards and regulations, and to facilitate MERCOSUR decisions, resolutions and directives on issues related to electronic commerce, digital signature, digital identity, time stamping (RFC 3161), protection of personal information, legal responsibilities of providers, computer crime, management of spam, electronic invoicing and electronic documentation.

(iii) Infrastructure to develop a MERCOSUR interoperability framework that includes creating time stamping standards and schemes (RFC 3161), dissemination of results, creation of capacities among operators and users, establishment and development of physical infrastructure, hardware and software, and regional seminars to share knowledge.

(iv) Services and applications whose definition is currently under discussion in the countries, including the development of an open platform for the management of PKI, as well as the adoption of best practices in relation to the life cycle of digital certificates and the development of a regional interoperability framework.

The hope is to eventually expand the project to other countries that are not currently part of MERCOSUR, such as Chile, the Bolivarian Republic of Venezuela and other countries in the region.

I) Status of regulatory frameworks in the region's countries

1. Electronic transactions, electronic signatures, and authentication—Taxation and customs

(a) International commitments in the region

Item 2.1 (Building Trust in the Digital Marketplace) of the Agenda for Connectivity in the Americas addresses e-commerce as follows: "Governments have a role to ensure that the conditions are in place to permit citizens and businesses to feel secure when they use electronic commerce. Security is a primary area of concern. Governments must establish clear rules permitting the use of cryptography and set policy concerning key recovery. Institutions must also be established to verify and certify electronic signatures in order to validate data messages in law and provide greater security for electronic transactions. E-commerce is encouraged by an environment where the availability of strong encryption and security of communications, data and transactions is assured. Privacy is a second key area where government must play a role."

The eLAC 2007 Plan includes a number of related goals: facilitating the use of electronic/digital signatures in government procedures and encouraging all government

entities to adopt security models and information-preservation models as a means of building trust in digital information managed or provided by the State; promoting electronic contracting mechanisms in government, as well as the adoption/development of methods of electronic payment, in order to encourage users to employ electronic transactions in dealing with the government; and promoting electronic integration of public administration systems through the use of single windows, so as to improve the processing of formalities and intragovernmental processes.

The eLAC 2010 Plan also establishes a goal for the use of electronic documents and electronic/digital signatures by government officials and representatives—as well as by citizens when dealing with government—through provisions establishing their evidential value. It also promotes the adoption and development of electronic methods of payment in order to encourage the use of electronic transactions in dealing with the government.

The plan also calls for strengthening the mechanisms for shared e-government services, by developing regional cooperation efforts to facilitate the sharing/transfer of technologies, platforms and computer applications and programs, as well as relevant knowledge, skills and best practices. It also proposes the goal of promoting the interoperability of standards-based e-government systems in Latin America and the Caribbean, and of continuing to develop a regional program of interoperability and standards for e-government services. The effort is aimed at ensuring that it will be possible to interconnect services within a jurisdiction and between jurisdictions, and draws on recommendations from sources such as the White Book on e-Government Interoperability.

One of the most ambitious goals of eLAC 2010 is that of ensuring that, by 2010, 80% of local governments interact with citizens and other levels of public administration via the internet, or that there be a doubling in the number of local governments doing so by that date. The plan also proposes making 70% of national and local government entities part of a single window approach to citizen transactions, or, alternatively, doubling the number of entities employing that approach.

(b) International regulatory instruments

Among the most significant efforts on electronic transactions and signatures considered in the regulatory frameworks of the countries that participated in the workshop are: the 1996 UNCITRAL Model Law on Electronic Commerce (MLEC), which has broadly influenced the legislation of Argentina, Chile, Colombia, Ecuador, Mexico and the Bolivarian Republic of Venezuela; the 2001 Model Law on Electronic Signature (MLES), which has been incorporated in the legislation of Argentina, Chile, Colombia, Mexico and Peru; and the 2005 United Nations Convention on the Use of Electronic Communications in International Contracts (CUECIC), which has been signed by Colombia and Paraguay.[15]

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[15] The Convention will enter into force once three instruments have been deposited with the United Nations General Secretariat.

Major instruments in MERCOSUR include Resolution 37/06 (which recognizes the legal validity of electronic documents, electronic signatures and advanced electronic signatures) and Resolution 34/06 (which provides guidelines for mutual recognition agreements on advanced electronic signatures). These resolutions have not yet been incorporated in Paraguay's domestic regulatory framework.

Similarly, Decision 571 (Customs Value of Goods Introduced into the Customs Territory of the Andean Community) authorizes the use of electronic signatures in electronic customs declarations in the member countries.

(c) Regulations of participating States

A review of the regulatory frameworks of the countries participating in the regional workshop highlights two regulatory trends in Latin America. The first is the adoption of specific electronic signature laws, which in some cases also include matters related to electronic contracting and data messages in the civil, mercantile, tax and/or administrative realms. The countries with such legislation include Argentina (Law 25.506 on digital signatures), Chile (Law 19.799 on Electronic Documents, Signatures and Commerce), Colombia (Law 527 of 1999), Ecuador (Law 2002-67), Peru (Law 27269 on digital signatures and certificates) and the Bolivarian Republic of Venezuela (the Data Messages and Electronic Signatures Act).

In addition, some of these countries have issued administrative regulations on the functioning of their digital signature infrastructure. Argentina's Administrative Decision 6/2007 sets forth technical standards; Ecuador has taken similar action through Decree 3496-2002 and CONATEL Resolution 584-23-2003. Peru adopted Guidelines for Public Key Infrastructure through the APEC Declaration of Lima of 2008, which apply to both the public and private sectors, based on the Official Electronic Signature Infrastructure overseen by INDECOPI.

The Plurinational State of Bolivia, Paraguay and Uruguay have also developed bills on electronic signatures, and Paraguay's proposed Law 080/2007 on Electronic Documents, Signatures and Commerce, which is based on the UNICTRAL Model Laws on Electronic Commerce and Electronic Signatures, is under parliamentary review. Paraguay's Chamber of Senators has submitted a number of draft bills for a law on digital signatures, based on the UNCITRAL model laws.

The second trend is exemplified by Mexico, which has modified various laws in the civil, mercantile, administrative and tax areas to recognize the use of electronic means and electronic signatures. Specific relevant bodies of law in this area include the Federal Civil Code, the Federal Code of Civil Procedure, the Code of Commerce and the Credit Institutions Act, which are applicable to the civil and mercantile areas, while the Tax Code of the Federation, the Customs Act and the Social Security Act apply to fiscal matters, with the Public Sector Procurement, Leasing and Services Act, the Public Works and Related Services Act and the Federal Administrative Procedures Act applying to the administrative realm.

Various countries and systems provide for online government procurement procedures. Argentina's Electronic Public Procurement System is one example. Chile's system operates under the supervision of the Office of Public Procurement and Contracting, as mandated by the Public Procurement Act (Law 19.886). Ecuador's National Public Contracting System is based on the Organic Law of the National Public Contracting System. Mexico's COMPRANET internet portal is based on the administrative laws described in the foregoing paragraph. Paraguay has a system that allows electronic means to be used for bidding under the Public Contracting Law. Peru has a State Electronic Procurement and Contracting System (Sistema Electrónico de Adquisiciones y Contratación del Estado, or SEACE). Finally, the Bolivarian Republic of Venezuela's Bidding Law permits the use of electronic means for that purpose.

None of these countries, in their questionnaires or reports, indicate that the 1994 UNCITRAL Model Law on Public Procurement of Goods, Works and Services,[16] the 1996 Model Law on Electronic Commerce, or the 2001 Model Law on Electronic Signature were used as a basis for designing their regulatory frameworks for public contracting.

In the tax area, the regulatory frameworks of Chile, Colombia, Ecuador and Mexico recognize the use of electronic invoicing. In addition, the tax laws of Ecuador, Mexico, Paraguay, Peru, Uruguay and the Bolivarian Republic of Venezuela allow taxpayers to make tax declarations and pay taxes online. Colombia has regulated electronic payment through its Single Window for Foreign Trade, while Ecuador authorizes electronic transfers to the accounts of beneficiaries registered in Ecuador's national financial system.

Chile, Peru and Mexico have modernized their customs systems under the single window scheme for foreign trade, as a result of commitments made in the context of APEC and WTO, as well as commitments related to their free trade agreements with the United States and Canada.

Also noteworthy are Colombia's Single Window for Foreign Trade and Ecuador's Interactive System for Foreign Trade. These systems use electronic means for exchanging information and executing transactions in operations relating to the import and export of goods and services.

(d) Conclusions

The adoption of commitments under the eLAC 2007 and eLAC 2010 plans established common regional goals. The extent to which these will influence the development of electronic commerce and e-government activities—through digital signature and certification mechanisms and by promoting implementation of the single

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[16] Note that this model law is being revised and updated to reflect the requirements of digital and governmental agendas, including coverage of electronic transactions.

window concept—will depend upon the degree to which the individual government systems of the countries allow for internal and intra-regional operations.

Of the 11 countries participating in the workshop, 6 have so far adopted the UNCITRAL Model Law on Electronic Commerce, while 5 have adopted the Model Law on Electronic Signature; 2 have signed the United Nations Convention on the use of Electronic Communications in International Contracts. Thus, it is to be hoped that States that have not yet incorporated the UNICTRAL model laws in their own legislation will do so, and that all of the region's States will sign and ratify the Convention, in order to harmonize legislation throughout the region and provide legal and other support for the mutual recognition of digital certificates issued in different countries. Such a move will facilitate cross-border trade.

Legal harmonization is also needed in the civil, mercantile, fiscal and administrative areas at all levels of government within individual countries, so as to simplify administrative processes and make government more efficient. The duplication of procedures leads to unnecessary infrastructure and processing costs, creating inefficiency and limiting transparency in public administration.

In the area of digital signatures, harmonization of regulatory frameworks will facilitate mutual recognition of digital certificates issued by different certifying entities (private or public) within and between countries.

It is also important to harmonize regional standards in accordance with the guidelines of the ECLAC White Book on e-Government Interoperability for Latin America and the Caribbean, incorporating the standards and recommendations of the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) and those of UNeDocs, as well as Recommendation 33 on single window systems.

The ALADI Pilot Project on Digital Certificates of Origin represents an important step towards regional foreign trade integration under a single window scheme. Thus, it is particularly important, within ALADI, to promote actions that take into account the European Union's experience and that encourage the creation and incorporation of a common regional customs code.

It is also important for the region's countries to adopt legislative measures limiting the responsibility of internet service providers (ISPs) in the area of e-commerce, by establishing mechanisms for reporting and removing illicit material, in the effort to develop online activities. In this regard, the Council of Europe's Directive on e-Commerce and the United States Digital Millennium Copyright Act serve as valuable benchmarks.

Fulfilling the commitments in the eLAC 2007 and eLAC 2010 Regional Plans requires leadership from a supranational organization capable of promoting national policymaking, thus paving the way for countries to incorporate the regulatory instruments needed to realize these goals.

2. Consumer protection

(a) International commitments in the region

The issue of spam represents a major consumer protection concern, addressed by the Tunis Agenda for the Information Society (2005) as follows:

"We resolve to deal effectively with the significant and growing problem posed by spam. We take note of current multilateral, multi-stakeholder frameworks for regional and international cooperation on spam, for example, the APEC Anti-Spam Strategy, the London Action Plan, the Seoul-Melbourne Anti–Spam Memorandum of Understanding and the relevant activities of the Organisation for Economic Co-operation and Development (OECD) and International Telecommunication Union (ITU). We call upon all stakeholders to adopt a multi-pronged approach to counter spam that includes, *inter alia*, consumer and business education; appropriate legislation, law-enforcement authorities and tools; the continued development of technical and self-regulatory measures; best practices; and international cooperation."

Relevant eLAC 2007 goals are designed to promote regional dialogue, exchange and cooperation on national experiences with spam and related institutional and technological issues. The plan also emphasizes the need to establish subregional working groups to promote and encourage policies for harmonizing rules and standards, so that the region's legislative frameworks generate trust and security at both the national and regional levels. The plan also urges that special attention be given to legislation on spam as part of the necessary framework for the development of the information society.

The eLAC 2010 Plan envisages policymaking and implementation to encourage the sound development of e-commerce. This includes educating providers and consumers on their rights and obligations.

(b) International regulatory instruments

United Nations General Assembly Resolution 39/248 of 1985, which contains consumer protection guidelines, sets forth basic principles applicable to consumer relations, and establishes consumers' right to real and effective protection in connection with electronic transactions, including means of preventing the improper use of consumers' personal data.

The OECD Guidelines for Consumer Protection in the Context of Electronic Commerce (1999) also recognize these rights, while the OECD Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders strengthens online consumer protections.

In addition, the OECD has issued a Recommendation on Cross-Border Cooperation in the Enforcement of Laws against Spam (2006) and a similar recommendation

regarding the enforcement of privacy laws (2007), in order to improve the level of online protection for consumers.

The APEC Privacy Framework and Privacy Pathfinder project are based on a multilingual system that permits the private sector to create its own cross-border rules to protect consumers' privacy and personal information, using seal-of-trust schemes.

Of note in the regional context are MERCOSUR Resolution 21-04 (regarding consumers' right to information in commercial transactions made over the internet) and Resolution 45/06 (protecting consumers against misleading advertising), as well as the MERCOSUR 10/96 Protocol of Santa María (Protocol on International Jurisdiction Regarding Consumer Relations). Decision 638 (providing guidelines for the protection of telecommunications users in the Andean Community) also bears on this issue.

(c) Regulations of the participating States

Of the 11 countries participating in the workshop, 9 have regulations on consumer protection. Moreover, such protection is provided by Argentina's Law 24.240, Chile's Law 19.496 (Consumer Rights Protection), and Colombia's Law 73 of 1981 and Decrees 1441/1982 and 3466/1982.

The following countries have laws as follows: Ecuador, an Organic Law on Consumer Protection, and an Electronic Commerce, Electronic Signature and Data Messages Law; Mexico, a Federal Consumer Protection Law; Paraguay, Consumer and User Protection Law 1334/98, as well as the related Law 2340/03; Peru, a Consumer Protection Law (Legislative Decree 716), the Supplementary Law of the Consumer Protection System (Legislative Decree 1045), an Unfair Competition Law (Legislative Decree 1044) and Law 28493 (Unsolicited Commercial e-Mail Law), with regulations under the latter covered by Supreme Decree 031-2005-MTC.

Uruguay's legislation includes Law 17250 (Consumer Protection), Regulation Decree 244/000 and Decree 308/002, while the Bolivarian Republic of Venezuela has a Law to Protect Persons Accessing Goods and Services, in addition to its Administrative Ruling 1085/2007.

In the area of self-regulation, a number of national associations and chambers of commerce have developed codes of conduct and seal-of-trust schemes for e-commerce. Some States, such as Mexico, have laws recognizing these instruments. In addition, the participation of countries in organizations such as APEC, and their free trade agreements with the United States, Canada and/or the European Union, have encouraged the adoption of these mechanisms.

An important provision in this connection is the Memorandum of Understanding of 20 November 2008, signed in the framework of the Second LatAm e-Commerce Conference 2008 in Mexico City. The purpose of the Memorandum was to develop an Ibero-American seal of trust, with the participation of the Mexican Internet Association

(Asociación Mexicana de Internet, or AMIPCI), the Colombian Chamber of Electronic Commerce, the Spanish Electronic Commerce and Relational Marketing Association, the Santiago (Chile) Chamber of Commerce, the Brazilian Chamber of Electronic Commerce and the Argentine Chamber of Electronic Commerce.

(d) Conclusions

The adoption of instruments at the subregional level, such as those in effect in MERCOSUR and the Andean Community (Comunidad Andina, or CAN), is an important step towards trade integration in the region. However, it is essential for all of the region's countries to join a common consumer protection regime through a framework treaty that incorporates international and OECD best practices, in order to ensure basic consumer rights and provide for cross-border dispute resolution procedures. Mexico's experience with its online conciliation mechanism (CONCILIANET), which is administered by the Federal Office of Consumer Protection, has valuable contributions to make in this regard.

Expansion of seal-of-trust mechanisms in Latin America could help to promote consumer confidence in e-commerce, while establishing harmonized regulatory frameworks for economic competition within the region could facilitate consumer-friendly development of markets.

3. Protection of personal information

(a) International commitments in the region

Item 39 of the Tunis Agenda for the Information Society (2005) addresses the need to continue promoting, developing and implementing a global cybersecurity culture. This requires greater national action and international cooperation on protecting information, as well as efforts to safeguard the privacy of personal data, as emphasized in United Nations General Assembly Resolution 57/239.

The eLAC 2007 Regional Plan includes the goal of establishing subregional working groups to promote and encourage policymaking to harmonize rules and standards. The objective of such an effort is to ensure the presence of legislative frameworks that provide confidence and security both nationally and regionally. Special attention should be devoted to creating legislation that provides privacy protections and safeguards personal information, as a necessary element in the development of the information society.

The goals of the eLAC 2010 Regional Plan also include linking national health Internet portals, in order to create a regional network for sharing experiences and content, and to enhance the development, adaptation and usefulness of the network, while providing for proper protection of data.

(b) International regulatory instruments

The participating countries have adopted the principles of the Universal Declaration of Human Rights and of the Inter-American Convention on Human Rights—San José (Costa Rica) Pact—regarding the protection of individual privacy in national constitutions.

The OECD[17] has issued various recommendations on the protection of personal information, including its Guidelines on the Protection of Privacy and Transborder Flows of Personal Data (1980). These guidelines have helped to harmonize international privacy provisions and to protect this basic right, which faces new threats in the online environment. They have also worked to prevent the illicit disclosure and storage of personal data, as well as the storage—or improper alteration—of inaccurate personal data.

These guidelines, which are directed at governments, businesses, organizations and individual users, are voluntary. They establish principles covering all computer processing of personal data, including all possible types of information processing and all categories of personal data. They define minimum standards for effective protection of personal information at the various stages of its acquisition, processing and transmission.

Another multinational organization that has assumed responsibility in this area is APEC,[18] whose Privacy Framework includes practical measures to protect the privacy of physical persons, while achieving a balance between this basic right and the commercial needs of businesses. It supports reasonable consumer expectations that businesses will recognize and safeguard their privacy under the principles set forth in the framework, which recognizes the cultural plurality of the economies participating in APEC.

The objectives of the framework are: (i) to permit multinational organizations to compile, access, use and/or process information in APEC countries by developing and implementing uniform approaches that allow their organizations to access and use personal information originating in any of the participating countries; and (ii) to permit the agencies responsible for protecting personal information to carry out their legal mandates.

The Ibero-American Data Protection Network, which includes Spain, Argentina, Chile, Mexico, Paraguay, Peru and Uruguay, establishes regulations in accordance with the Directives to Harmonize Data Protection in the Ibero-American Community governing: (i) principles related to the purpose and nature of data; (ii) conditions for the legitimate processing of data; (iii) information required to be provided to affected parties; (iv) the right to access, correct and remove data of affected parties; (v) other rights of affected parties; (vi) security and confidentiality in the handling of data; (vii) limitations on the international transfer of data; (viii) oversight authorities; and (ix) sanctions.

Among the principal elements of the guidelines relating to oversight authorities are: (i) the possibility of granting autonomy to these authorities in cases where authority is not

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[17] Of the countries participating in the workshop, only Mexico is a member of OECD.

[18] Of the countries participating in the workshop, Chile, Mexico and Peru are members of APEC.

vested in either the government or in a pre-existing public entity; (ii) establishing mechanisms to guarantee the independence and permanence of the heads of such authorities; (iii) ensuring that records are maintained regarding the transactions carried out by the public and private sectors, and that relevant parties can access them; (iv) authorizing international transfers of data to States whose legislation does not incorporate the provisions set forth in the guidelines; (v) promoting the use of self-regulatory mechanisms; and (vi) creating bilateral and multilateral cooperation mechanisms with other authorities.

(c) Regulations of the participating States

At the constitutional level, the protection of privacy has been recognized by Argentina. The Plurinational State of Bolivia has also recognized *habeas data* in order to guarantee access to, correction of and/or removal of personal information that violates personal and family confidentiality and privacy. The constitutions of Chile, Colombia, Ecuador and Mexico also protect the right to privacy and the integrity of personal information. Paraguay, Peru and the Bolivarian Republic of Venezuela also explicitly recognize the right of *habeas data*.

With regard to statutory legislation, some of the countries participating in the workshop have regulated the protection of information through special laws. Argentina's Law 25.326 follows the European model set forth in European Council Directive 95/46, and in the Directives to Harmonize Data Protection in the Ibero-American Community. Chile has a special ordinance under Laws 19.628 and 19.812, while Colombia has a Habeas Data Statute, and Uruguay has a Law on the Protection of Personal Data or Habeas Data Action (Law 18331). The Plurinational State of Bolivia, Cuba, Ecuador, Mexico, Paraguay, Peru and the Bolivarian Republic of Venezuela have provided relevant regulations through a variety of laws.

(d) Conclusions

The adaptation of national regulations, in order to align them with the provisions of the Directives to Harmonize Data Protection in the Ibero-American Community, will promote cross-border trade with the European Union and Argentina. However, the provisions of countries such as Chile, Mexico and Peru also need to be modified to bring them into compliance with the APEC Privacy Framework and with the commitments assumed under their free trade agreements with the United States and Canada.

It is also important that self-regulatory schemes, such as those associated with the cross-border seals of trust under the APEC Privacy Pathfinder project, be used more widely.

4. Computer crime

(a) International commitments in the region

The eLAC 2007 Regional Plan is designed to promote regional dialogue, exchange and cooperation regarding national experiences with cybersecurity, spam and related institutional and technological issues. One of its goals is to create subregional working groups to promote and encourage policymaking that harmonizes rules and standards. The purpose of this effort is to ensure that there are legislative frameworks that foster trust and security at the national and regional levels. Special attention should be given to legislation on computer crime and crimes using ICT, as part of the framework for development of the information society.

The plan also proposes encouraging existing regional initiatives to integrate ICT in national systems of justice. An example of this is the Electronic Justice Project promoted by the Supreme Courts of the Ibero-American countries.

The eLAC 2010 Regional Plan urges the region's countries to consider ratifying or signing the Council of Europe's Convention on Cybercrime and its supplementary protocol, as a means of facilitating the integration and adaptation of regulations in this area, while respecting the principle of privacy rights.

(b) International regulatory instruments

The Council of Europe's Convention on Cybercrime and its supplementary protocol deal with substantive and procedural matters of criminal law. The Convention requires member States to take steps to incorporate its provisions in national legislation. It also addresses issues of international cooperation.

In substantive terms, the Convention incorporates four categories of crimes, which represent a core list of extraditable crimes (listed below), and establishes the elements that must be present for these to be considered crimes. These include:

• Crimes that violate the confidentiality, integrity and availability of data and information systems, including: (i) gaining illicit entry to computer systems; (ii) illicit interception of computer data; (iii) interference with (damaging, deleting or altering) data; (iv) interfering with information systems by introducing, transmitting, damaging, deleting, compromising the quality of, altering or removing data; and (v) misuse of devices (software or passwords) to commit crimes

• Computer crimes: (i) falsification of information; and (ii) computer fraud.

• Content-related crimes: (i) crimes relating to child pornography; and (ii) crimes of xenophobia.

• Crimes relating to intellectual property and related rights.

Some of the convention's most important measures involve the enforcement of procedural provisions: conditions and safeguards for preserving human rights; procedures for immediate safeguarding of stored data; requiring service providers to furnish

information request by authorities for investigative purposes; registration and confiscation of stored computer data; obtaining computer data in real time; interception of content; jurisdictional issues; and international cooperation on issues including extradition, mutual assistance and the 24x7 Network.

The agendas of the ITU, OECD, APEC and OAS have promoted a range of activities to enhance online security and training for administrative, judicial and parliamentary authorities on subjects related to computer crime. Progress in this area is reflected in: the 2007-2009 ITU Cybersecurity Program to support developing countries; the OECD Guidelines for the Security of Information Systems and Networks—Towards a Culture of Security (2002); the APEC Judge and Prosecutor Training Programme for Cybercrime (2005-2008); and the work of the CITEL Rapporteur Group on Cybersecurity and Critical Infrastructure.

(c) Regulations of the participating States

Among the countries participating in the workshop, Chile and the Bolivarian Republic of Venezuela have issued specific laws dealing with computer crime: Law 19.223 (Chile) on computer crimes and the Special Law on Computer Crimes (Bolivarian Republic of Venezuela).

Penal codes and some other legal provisions in Argentina, Ecuador, Mexico, Paraguay and Peru now include provisions to address computer crime. Cases in point are Argentina's Law 26.388, which modifies the country's Penal Code, and Peru's Law 27309, which similarly modifies that country's Penal Code. Ecuador's legislation (the Electronic Commerce Law) defines as administrative violations certain illicit acts involving ICT. Cuba is in the process of reviewing a proposed reform to the Penal Code.

Among other legal provisions that include sanctions for some types of computer crime are Argentina's Laws 25.036 and 25.506, Colombia's Law 599 of 2000, Mexico's Credit Institutions Act, Paraguay's Law 1.680/01 (Code on Children and Adolescents) and Uruguay's Laws 16736 (National Budget Act), 18383 and 17815. Cuba is presently reviewing a proposed reform of its Copyright Act.

The crimes for which sanctions are commonly provided include interception of communications, computer espionage, gaining illicit entry to computer systems, damaging and sabotaging of information systems, fraud using electronic means, falsification of electronic or computerized documents, interrupting communications, deleting or altering digital evidence, disclosing or disseminating data contained in a computer system without authorization, using electronic means for child pornography and violating intellectual property rights for commercial purposes.

In the procedural realm, there are widespread provisions regarding the interception of private communications, by judicial order, for purposes of criminal investigation. Beyond this, however, little progress has been achieved in the procedural area.

(d) Conclusions

Ratification of the Council of Europe's Convention on Cybercrime and its supplementary protocol by the participating countries, and the corresponding modifications of substantive and procedural criminal law would constitute a major advance in terms of regional harmonization and international cooperation with the countries of the European Union, Canada, the United States, Japan and South Africa.

Some countries have federal systems in which the substantive and procedural criminal laws of different regions, states or provinces coexist side by side, along with additional federal legislation. This leads to legal conflicts and impedes cooperation between authorities at different levels of government. Thus, it is important that all substantive and procedural criminal law be harmonized, in order to achieve unity of content at the federal, regional, provincial and state levels.

Other important steps include inviting judicial authorities to participate in training programmes, as well as promoting the ITU cybersecurity agenda.

5. Intellectual property rights

(a) International commitments in the region

Goals of the eLAC 2007 Regional Plan designed to promote efficiency and social inclusion include establishing a regional working group to exchange experiences and share criteria used for the development and use of open-code and free software. The working group would conduct studies on technical, economic, organizational, training and security challenges, as well as analyzing the use of proprietary software to disseminate best practices and maximize efficiency, facilitate coexistence with other forms of licensing, increase interoperability, and support possibilities of migration.

The plan also proposes establishing a regional working group with representatives of all stakeholders to: examine developments and challenges in the creative and the content industries; create regional cooperation mechanisms; seek solutions for common problems, such as the financing of an intangible goods economy; foster the distribution of cultural and communications goods and services in the region; and improve local capacities for producing content that respects cultural diversity and cultural identities.

The eLAC 2010 Plan proposes establishing a regional market for digital content and services. The proposed process includes organizing forums through a public-private partnership involving commercial providers. It also envisages facilitating access to the resources and capacities needed to develop technology businesses (hardware, software, contents and services), and encouraging innovation in existing businesses, with special emphasis on micro, small and medium enterprises.

The plan also proposes creating regional networks that draw on public-private partnerships of various types, in order to promote the development of competitive

software in international markets. Special attention is to be given to local needs, in terms of productive and social organizational processes, as well as to digital inclusiveness. The plan emphasizes encouraging the production of interactive and interoperable digital content through existing initiatives, creating new instruments such as national centres of excellence, seeking to make the region's instruments interoperable, and ensuring that they use high-speed networks and generate information that is available across various media (cell phones, landline telephones, television, radio, computers, film, etc.).

(b) International instruments

There is greater harmonization, in the region's regulatory frameworks, with regard to intellectual property rights than in other areas. All of the countries participating in the workshop have signed both the Paris and Berne Conventions. Moreover, the WIPO Copyright Treaty (WCT) has been signed by—and is in force in—Argentina, Chile, Colombia, Ecuador, Mexico, Paraguay and Peru. The Plurinational State of Bolivia, Uruguay and the Bolivarian Republic of Venezuela have signed the treaty, but it has not yet entered into force in those countries.

Argentina, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru and Uruguay have also signed the WIPO Performances and Phonograms Treaty (WPPT), and it is in force in those countries. And although the Plurinational State of Bolivia and the Bolivarian Republic of Venezuela have signed the Treaty, it is not yet in effect in either country.

Argentina, Chile, Colombia, Ecuador, Mexico and Peru have all signed the WTO TRIPS Agreement.

At the regional level, legislation in the Plurinational State of Bolivia, Ecuador and the Bolivarian Republic of Venezuela has incorporated Andean Community Decisions 486 (Common Industrial Property Regime) and 351 (Common Copyright and Related Rights Regime), and Colombia and Peru have also signed Decision 351.

(c) Regulations of the participating States

While the intellectual property rights laws of Chile and Ecuador regulate industrial property rights as well as copyright and related rights, legislation in Argentina, the Plurinational State of Bolivia, Colombia, Mexico, Paraguay, Peru, Uruguay and the Bolivarian Republic of Venezuela applying to industrial property is separate from that applying to copyright and related rights.

In terms of industrial property rights, regulations within the region are generally similar with regard to patents on inventions, certificates of protection, utility models, industrial designs, industrial secrets, trademarks, commercial names, commercial logos and denominations of origin.

With regard to intellectual property rights law, legislation is largely similar in terms of its protections for authors of literary and artistic works and the rights of holders of

copyrights and related rights. Distinctive provisions in certain countries include Mexico's Federal Copyright Act, which extends protection of artistic and literary works 25 years beyond the time period provided by the other countries (i.e., 100, rather than 75 years after the death of the author). In addition, Mexican law is unusual in reserving, for 25 years, rights for the exclusive use of online publications and fictitious personalities.

Many of the countries' legislative frameworks define crimes related to the illicit commercial reproduction of counterfeit trademarks and of works covered by copyright. The level of piracy in the region, however, highlights the inadequacy of enforcement.

(d) Conclusions

It is to be hoped that the countries that have not yet signed internet treaties such as TRIPS, will do so, and that specialized courts for intellectual property rights issues will be created in the countries. Such steps would help improve enforcement of legislation and international treaties in this area.

Mexico and Peru deserve special mention in this regard. Mexico has recently created a specialized regional branch of the Court of Tax and Administrative Justice for intellectual property rights matters, and Peru has, as part of INDECOPI, a court for the Protection of Competition and Intellectual Property Rights.

6. Domain names

(a) International commitments in the region

The eLAC 2007 Regional Plan is designed to promote regional dialogue, exchange and cooperation on national experiences with regard to internet governance, training in managing internet resources (domain names, IP numbers and protocols), international interconnection costs, cybersecurity, spam, and related institutional and technological issues.

(b) International regulatory instruments

Coordination of the region's internet registration authorities by the Latin American and Caribbean Internet Addresses Registry (LACNIC), under global oversight by the Internet Corporation for Assigned Names and Numbers (ICANN) is one of the cornerstones of internet development in Latin America. The adoption of the ICANN Uniform Domain-Name Dispute-Resolution Policy is of paramount importance in ensuring that internet registration authorities use uniform criteria throughout the region.

(c) Regulations in the participating States

With regard to domain names, NIC Argentina, NIC Chile, NIC Mexico, NIC Peru and the NIC of the Bolivarian Republic of Venezuela have incorporated the ICANN Uniform Domain-Name Dispute-Resolution Policy in their own policies, and recognize

the WIPO Arbitration and Mediation Centre's arbitration procedure. Peru has its own Cybertribunal, which it recognizes as the official arbitration venue. NIC Paraguay deals with domain name disputes through extrajudicial mechanisms, under Law 1878/02 (Arbitration and Mediation). In the Plurinational State of Bolivia, the Agency for the Development of the Information Society of Bolivia (Agencia para el Desarrollo de la Sociedad de la Información en Bolivia, or ADSIB) is in the process of designing new general policies and dispute resolution policies.

(d) Conclusions

It is vital to promote protocol changes, from IPV4 to IPV6, in specialized forums of the Global Internet Community, such as the Internet Governance Forum (IGF) and the South School on Internet Governance.

IV. ANNEXES

The study of each country is accompanied by the following tables, which show the country's regulatory framework and level of harmonization with international instruments.

Figure 1. Colour key used in tables to show the state of regulatory frameworks

Harmonized with international instruments of specialized United Nations agencies.

Harmonized with international instruments of specialized entities not in the United Nations system.

National regulations not harmonized with international instruments.

No national regulations in effect.

Blue characters

- Legislative bill.

- Influenced by international instruments of specialized United Nations agencies.

White characters

- Influenced by international instruments of specialized entities not in the United Nations system.

Argentina

Electronic transactions	Electronic signature and authentication	Consumer Protection	Protection of Data	Computer Crime	Intellectual property Rights	Domain names	Taxation and customs
• Civil Code • Law 24240 (Consumer Protection Law) • Law 25.506 (Digital Signature) [UNCITRAL e-commerce and e-signature] • GMC Resolutions: MERCOSUR 34/2006 (Digital Signature) 37/2006 Validity of electronic documents, e-signature (ES); advanced e-signature (AES.)	• Civil Code • Law 24240 (Consumer Protection Law) • Law 25.506 (Digital Signature) [UNCITRAL e-Commerce and e-Signature] • GMC Resolutions: MERCOSUR 34/2006 (Digital Signature) 37/2006 Validity of electronic documents, e-signature (ES); advanced e-signature (AES.)	• Law 24240 (Consumer Protection Law) ˙MERCOSUR: GMC/RES 21/04 (Consumers' right to information in Internet commercial transactions) • MERCOSUR: GMC/RES 45/06 (Consumer protection: misleading advertising) • Policies on use of trust seals • Code of Conduct of the Chamber of Commercial Information Enterprises • Code of Ethics of the Direct and Interactive Marketing Association of Argentina	• Constitution • Pact of San José, Costa Rica • Law 25.3216 (Protection of Personal Data) [EU Directive 95/46 (Protection of Personal Data)] • Decree 1558 (Regulations under Law 25.326) • Rulings of the National Office for the Protection of Personal Data • Code of Conduct of the Chamber of Commercial Information Enterprises • Code of Ethics of the Direct and Interactive Marketing Association of Argentina	• Law 26.388 (Modifying the Penal Code) • Law 25.506 (Digital Signature) ES Falsification • Law 11.723 (Industrial Property Rights) • National Intelligence Act	• Law 22.362 (Law on Trademarks) • Law 24.481 (Patents on Inventions and Utility Models; modified by Laws 24.572 and 25.859) • Decree Law 11.723 (Intellectual Property Rights; modified by Law 25.036 (SW—works) • Decrees • WIPO Copyright Treaty and Performances and Phonograms Treaty • Berne Convention (Works) • Geneva Convention (Phonograms)	• ICANN Domain-Name Dispute-Resolution Policy—WIPO Arbitration and Mediation Centre	• Law 25.506 (Digital Signature) [UNCITRAL e-Commerce and e-Signature]

Bolivia

Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property rights	Domain names	Taxation and customs
• Civil Code • Code of Commerce • Legislative bill 080/2007 (Electronic Documents, Signatures and Commerce) [UNCITRAL e-Signature] • Law 1488 (Banking and Financial Institutions Act) • High-Value Payments System Regulations (SIPAV) • BCB Board of Directors Resolution 070-2001 • Board of Directors Resolution 086-2004 (Digital Signature Regulations)	• Civil Code • Code of Commerce • Legislative bill 080/2007 (Electronic Documents, Signature and Commerce) [UNCITRAL e-Signature] • Law 1488 (Banking and Financial Institutions Act) • High-Value Payments System Regulations (SIPAV) • Board of Directors Resolution 086-2004 (Digital Signature Regulations)	• Sectoral Regulatory System Law (SIRESE)	• Constitution (Inviolability of private correspondence and documents; habeas data provision) • Supreme Decree 28268 (Habeas data process) • Civil Code • Penal Code, Law 1768 • Telecommunications Act • Administrative Procedures Act (Right to access) • Legislative bill 080/2007 (Electronic Documents, Signatures and Commerce) [UNCITRAL e-Signature]	• Penal Code: Violation of privacy of correspondence and papers; secrets • Legislative bill 080/2007 (Electronic Documents, Signatures and Commerce) [UNCITRAL e-Signature] (Incorporating computer crime in Penal Code)	• Industrial Secrets Act • Trademark Regulations Act • Law 1322 (Copyright Act) • Andean Community of Nations: Decision 486 (Common Industrial Property Regime) Decision 351 (Common Copyright and Related Rights Regime) • Supreme Decree 24582 (Regulations on software) [TRIPS; Berne Convention] • WIPO Internet Treaties (Ratification pending)	• Supreme Decree 26624 (Regulations governing registration of domain names under the internet country code ccTLD.bo) • General ADSIB [WIPO] Dispute-Resolution Policies	• Law 843 (Tax Reform Act) • Law 1990 (General Customs Act) [APEC]

Chile

Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property rights	Domain names	Taxation and customs
• Law 19.799 (Electronic Documents and Signatures; Certification of e-signatures) [UNCITRAL e-Signature] [Utah (USA) Digital Signature Law] • Law 19.886 (Public Procurement)	• Law 19.799 (Electronic Documents and Signatures; Certification of e-signatures) [UNCITRAL e-Signature] [Utah (USA) Digital Signature Law] • Law 19.886 (Public Procurement)	• Law 19.496 (Consumer Rights Protections) •Santiago Chamber of Commerce Seal of Trust and Code of Best Practices for e-Commerce	• Constitution • Law 19.628 (Privacy protections; modified by Law 19.812) [Spain's Organic Law on the Automated Treatment of Personal Data]	• Law 19.223 (Computer Crime)	• Law 17.336 (Intellectual Property Rights) • WIPO Internet Treaties • GATT/TRIPS WTO	• Regulations governing functioning of ".cl" domain names	• Decree Law 825 (Value Added Tax) • Exemptions under Domestic Tax Service Resolution 09 (2001) • Law 19.983 (Transfer and validity of invoice copies, 2004) • Exemptions under Domestic Tax Service Resolution 86 (2005) • Decree Law 830 (on Tax Code) • Law 19479 (Modifies Customs Ordinance and Organic Law of National Customs Service) • Decree with force of law 30 (2005)

Colombia

Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property rights	Domain names	Taxation and customs
• Law 527 of 1999 (e-Commerce) [UNCITRAL e-Signature] • United Nations Convention on the Use of Electronic Communications in International Contracts (not ratified) • Decree 1747 of 2000 (Regulating certification entities and digital signatures) • Tax Statue (Electronic invoices) • Decree 1929 of 2007 (Regulations on electronic invoices, under tax statute) • Civil Code • Code of Commerce	• Law 527 of 1999 (e-Commerce) [UNCITRAL e-Signature] • United Nations Convention on the Use of Electronic Communications in International Contracts (not ratified) • Decree 1747 of 2000 (Regulating certification entities and digital signatures) • Decree 1929 of 2007 (Regulations under national tax statute, covering matters including electronic invoices) • Law 588 of 2000 (authorizes notaries and consuls to function as digital certification entities) • Civil Code •Code of Commerce	• Constitution • Law 73 of 1981 (By virtue of which the State intervenes in the distribution of goods and services to protect consumers) • Decree 1441 of 1982 (Regulates the organization, recognition and monitoring and oversight regime for consumers' groups and organizations) • Decree 3466 of 1982 (Consumer Statute)	• Constitution • Law 1266 (Habeas Data Act)	• Law 1273 (Modifies Penal Code)	• Constitution • CAN Decision 351 (Common Copyright and Related Rights Regime) • Law 23 of 1982 (Copyright) • Law 33 of 1987 (Signing of Berne Convention) • Law 545 of 1999 (Signing of WIPO Performances and Phonograms Treaty) • Law 564 of 2000 (A WIPO Copyright Treaty)	• Law 1065 of 2006 (Giving University of the Andes responsibility for administering ".co" domain by delegation of Internet Assigned Numbers Authority [IANA]) • ICANN Uniform Domain-Name Dispute-Resolution Policy (UDRP) •Code of Commerce (Application of International Mercantile Practices)	• Decree 1929 of 2007 (Regulation of the Tax Law, electronic signature) • Decree 4149 of 2004 (Foreign Trade Single Window—VUCE)

Cuba

Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property rights	Domain names	Taxation and customs
• Draft Decree Law (General e-Commerce Standards) • CBC Resolution 61/2002 (Standards for e-Commerce Collections and Payments)	• Draft Decree Law (General e-Commerce Standards) • CBC Resolution 61/2002 (Standards for e-Commerce Collections and Payments)		• MIC Resolution 57/1996 (Creating the National Registry of Electronic Information for Data Networks) • SIME Resolution 204/1996 (Regulating Protection and Technical Security of Information Systems) • MIC Resolution 188/2001 (Methodology for Access by Cuban Entities to the Internet and to Other Foreign Data Networks) • Draft Decree Law (General e-Commerce Standards)	• Draft reform (Law 62—Penal Code)	• Draft reform (Law 14—Copyright) • MINICULT-SIME Joint Resolution 1-99 (Software Copyright Protection)	• MIC Resolution 124/2000 (Registration of Cuban IP Addresses)	

Ecuador

Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property rights	Domain names	Taxation and customs
• Law on Electronic Commerce (e-Commerce, e-signature, data messages) [UNCITRAL e-Commerce] [EC Directives on e-Commerce] • Regulations under Law on Electronic Commerce • Regulations on accreditation, registration and regulation of entities authorized to provide information certification and related services • Organic Law of the National Public Contracting System • Decree 1553-2006 (Substantive regulation on payment of public employee salaries and all acquired obligations)	• Law on Electronic Commerce (e-Commerce, e-signature, data messages) [UNCITRAL e-Commerce] [EC Directives on e-Commerce] • Regulations under Law on Electronic Commerce • Regulations on accreditation, registration and regulation of entities authorized to provide information certification and related services • Organic Law of the National Public Contracting System • Decree 1553-2006 (Substantive regulation on payment of public employee salaries and all acquired obligations)	• 2008 Constitution • Organic Law on Consumer Protection • Law on e-Commerce, e-Signature and Data Messages [UNCITRAL e-Commerce] • [EC Directives on e-Commerce] • CAN regulations	• 2008 Constitution • Law on e-Commerce, e-Signature and Data Messages [UNCITRAL e-Commerce] •[EC Directives on e-Commerce] • Organic Law of the National Public Contracting System • Special Telecommunications Law and reform thereof • General Regulations under Special Telecommunications Law and reform thereof	• Law on e-Commerce, e-Signature and Data Messages [UNCITRAL e-Commerce] • [EC Directives on e-Commerce] • Penal Code	• 2008 Constitution • Intellectual Property Rights Act •Regulations under Intellectual Property Rights Act • Decision 351 (Common Copyright and Related Rights Regime established by Commission of the Cartagena Agreement) [CAN] • Decision 486 (CAN Common Industrial Property Regime) •Rome Convention (Phonograms/radio) •TRIPS [WTO] • WIPO Internet Treaties	• Registration of domain names under the internet country code ccTLD.bois, administered by NIC.EC, by delegation of ICANN, through the Internet Assigned Numbers Authority (IANA) •Dispute resolution through arbitration under ICANN Uniform Domain-Name Dispute-Resolution Policy (UDRP)	• Tax Code (Electronic notifications) • Law on Electronic Commerce (e-Commerce, e-signature, data messages) [UNCITRAL e-Commerce] [EC Directives on e-Commerce] • Domestic Tax Service Resolution 1065 of 2002

Mexico

Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property rights	Domain names	Taxation and customs
• Federal Civil Code • Code of Commerce **[UNCITRAL e-Commerce and e-Signature]** • Regulations under Code of Commerce on certification services providers • Federal Administrative Procedures Act • Credit Institutions Act • Tax Code of the Federation **[UNCITRAL e-Commerce and e-Signature]** • Federal Consumer Protection Law • Federal Code of Civil Procedure • NOM 151-SCFI-2002	• Federal Civil Code • Code of Commerce **[UNCITRAL e-Commerce and e-Signature]** • Regulations under Code of Commerce on certification services providers • Federal Administrative Procedures Act • Credit Institutions Act • Tax Code of the Federation **[UNCITRAL e-Commerce and e-Signature]** • Federal Consumer Protection Law • Federal Code of Civil Procedure • NOM 151-SCFI-2002	• Federal Consumer Protection Law **[OECD]** • Codes of conduct and seals of trust **[APEC]**	• Constitution, Article 6 • Federal Transparency and Access to Public Government Information Law **[OECD]** • Federal Consumer Protection Law • Credit Institutions Act • Federal Telecommunications Act • Codes of conduct and seals of trust **[APEC]** • Law regulating credit information firms	• Federal Penal Code • Organized Crime Act • Federal Code of Criminal Procedure • Credit Institutions Act	• Federal Copyright Act • Industrial Property Law • Customs Act • Federal Penal Code • **WIPO** Treaties **GATT-TRIPS WTO**	• **ICANN** UDRP—NIC.mx • **WIPO** Arbitration and Mediation Centre	• Tax Code of the Federation • Value Added Tax Law • Income Tax Law • Miscellaneous Tax Resolution 2008 • Customs Law • Agreement to provide facilities to exporters • Decree granting administrative facilities in customs and foreign trade areas (COD G-3), registry of IMMEX domiciles and digital window. • **[UNCEFACT, OECD/APEC]**

Paraguay

Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property	Domain names	Taxation and customs
• Civil Code • Aeronautics Code • United Nations Convention on the Use of Electronic Communications in International Contracts (signed but not ratified) **[UNCITRAL]** • Recognition of legal validity of electronic documents, e-signatures and advanced e-signatures in MERCOSUR context (not yet incorporated in the substantive law of Paraguay) **[MERCOSUR/GMC EXT/RES. 37/06]** • Telecommunications Law (642/9.5) • Legislative bill on digital signature, digital documents and electronic procedures. **[UNCITRAL e-Signature]**	• Public Contracting Law (Law 2051/03) and amendment 3439/07 • Customs Code • Legislative bill on use of digital signature in government contracting **[UNCITRAL e-Signature]** United Nations Convention on the Use of Electronic Communications in International Contracts **[UNCITRAL]** • Recognition of legal validity of electronic documents, e-signatures and advanced e-signatures in MERCOSUR context (not yet incorporated in the substantive law of Paraguay) **[MERCOSUR/GMC EXT/RES. 37/06]** ' Guidelines for Agreements on Mutual Recognition of Advanced Electronic Signatures in MERCOSUR (not incorporated in domestic law) **[MERCOSUR/GMC EXT/RES. 34/06]**	• Law 1334/98 (Consumer Protection Law) and 2340/02 (supplementing same) • Santa María Protocol (Consumer relations; ratified via Law 1.081 of 07/97) **[MERCOSUR/CMC/DEC 10/96]** • Consumers' right to information in commercial internet transactions (not incorporated in domestic law) **[MERCOSUR/GMC/RES 21/04]** • Consumer Protection (misleading advertising) (not incorporated in domestic law) **[MERCOSUR/GMC/RES 45/06]**	• Constitution (habeas data) • Law 1.682 (Regulating private information; amended by law 1969/2002) • Law 3.519/08 (Protection of Evidentiary Data Requested by Health Authorities for the Approval of Phytosanitary Products) • Law 3283 (Protecting undisclosed information and evidence for pharmaceutical records) • Penal Code	• Penal Code (Alteration of data, computer sabotage, fraudulent operations using computers, and child and adolescent pornography) • Law 213403 (Approving the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography) • Code of Children and Adolescents	• Constitution • Law 1.328 (Copyright and Related Rights) • Law 1.294/98 (Trademarks) • Law 1.630/2000 (Patents on Inventions) • Law 868/81 (Industrial Designs and Models) • Paris Convention • Berne Convention • Law 1.582/00 (Approving WIPO Internet Treaty) **[WIPO]** • Law 1538 (Approving WIPO Phonograms Convention) **[WIPO]**	• Administrative regulations governing NIC.py • Law 1879 (Arbitration and Mediation)	• Law 2421/04 (Fiscal Adjustment) • Law 2.422/04 (Customs Code) • Resolution 568/06 (Establishing general conditions governing the use of electronic media for submitting tax information and responsibility for information so submitted) • General Resolution (SET) 4/07 (Regulating the acquiring, changing, etc., of passwords)

Peru

Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property rights	Domain names	Taxation and customs
• Law 27269 (Digital Signature and Certification) • Supreme Decree 052/2008/PCM (Regulations under Digital Signatures and Certification Act) **[UNCITRAL e-Signature]** • Law 27291 (Amending Civil Code with regard to manifestation of will) • Law 27444 (General Administrative Procedure) •CONASEV Resolution 008-2003 (Peruvian Securities Market Network)	• Law 27269 (Digital signature and certification) • Supreme Decree 052/2008/PCM (regulations under digital signature and certification law) **[UNCITRAL e-signature]** • 030-2008/CRT-INDECOPI **[APEC]** • Law 27444 (General Administrative Procedure) • CONASEV Resolution 008-2003 (Peruvian Securities Market Network)	•Legislative Decree 716 (Consumer Protection Law) •Legislative Decree 1045 (on the Consumer Protection System Supplementary Law) •Legislative Decree 1044 (on Unfair Competition Law) •Law 28493 (Regulating use of unsolicited commercial e-mail, or spam) • Supreme Decree 031-2005/MTC (Anti-spam regulation)	• 1993 Constitution— Fundamental Rights of the Person (habeas data) • Law 27489 (on Private Risk Information Clearinghouses and on Protection of the Subjects of such Information) • Transparency and Access to Public Government Information Law • **Legislative bill on protection of personal data**	• Law 27309 of 2000 (Incorporating computer crime provisions in Penal Code)	• Legislative Decree 822 (Copyright Act) **[WIPO] [TRIPS]** ˙ Legislative Decree 1076 (Amending Legislative Decree 822) ˙Legislative Decree 823 (Industrial Property Law) **[TRIPS] Paris Convention** • Legislative Decree 1092 (Approving border measures to protect trademarks and copyright and related rights) • Decision 344 (Common Industrial Property Regime for the Andean countries) Decision 351 (Common Copyright and Related Rights Regime) •**WIPO** Internet Treaties	• The ".pe" domain is administered by the Peruvian Scientific Network •ICANN dispute resolution principles •WIPO Arbitration and Mediation Centre •Peruvian Cybertribunal	•Supreme Decree 135-99 (Tax Code) •Legislative Decree 953 (Authorizing Tax Administration to authorize submission of tax statements via magnetic media) •Decree 809 (General Customs Act) •Ministry of Foreign Trade and Tourism has a single foreign trade window **[Free trade treaties with United States and Canada] [APEC]**

Uruguay

Electronic transactions	Electronic signature and Authentication	Consumer protection	Data protection	Computer Crime	Intellectual property	Domain names	Taxes and customs
• Law 16879 approving the UN Convention on International Sale of Goods Contracts. • Decree 134/005. Rules for the commercialization of animals through virtual auctions. • Decree 174/005. Incorporating the norm on the computerization of the International Cargo Manifest of the Southern Common Market**[MERCOSUR]** • Decree 175/004. Program of Government Procurement and Contracts. • Decree 506/001- International parcel post regime as a consequence of electronic commerce operations. • Decree 1177/999 approving contracting with all financial institutions on electronic transfer payments to providers and beneficiaries of Government payments. • Decree 65/998. on electronic records.	˙ **Draft bill on electronic signature, December 2008. [UNCITRAL, e-signature]** • Law 18237. Authorizing the use of electronic records, electronic documents, simple cybernetic keys, electronic signatures, digital signatures, electronic communications and constituted electronic address, in all judicial and administrative procedures treated by the Judiciary. • Law 18172, articles 329 y 330, creating the Registry of Certification Service Providers, under the Regulatory Unit of Communication Services (URSEC), appointing competencies regarding registering, control, instructing, and rulemaking. • Law 17243 on public and private services, public safety and conditions to carry out productive activities. • Decree 382/003 on the use of digital signature and provision of certification services. • Decree 65/998. on electronic records.	• Law 17.250 on Consumer protection (articles 12 and 16). • Decree 244/000 that regulates Law 17.250. • Decree 308/002 that regulates Law 17.250. • Decree 246/005. Incorporating resolution 21/004 of the Common Market Group of MERCOSUR approving "the consumer's right to information in commercial transactions carried out through the Internet".	• Law 18.331 on the protection of personal data and habeas data action. • Law 17823 - Code on Childhood and Adolescence. • **Commercial data project that creates the Personal Data Database Register, under the Personal Data Control and Regulatory Unit.**	• Law 16.736. National Budget of 1996: the voluntary transmission of an inaccurate text, and the alteration or destruction of a saved document on magnetic support, or its backup, using electronic means, is equated to falsification of public documents as established in the Penal Code. • Law 17.815. Commercial or non-commercial sexual violence committed against children, adolescents or disabled persons. • Law 18383, establishing a new relationship to the attack against telecommunication. • Law 9739 – Literary and artistic property, establishing various offences related to Copyright and related rights.	• Law 18253, approving the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty and the agreed statements to the WIPO Performances and Phonograms Treaty . • Law 18036, approving the WIPO treaty on Copyright and agreed statements related to the WIPO treaty on Copyright. •Law 9739. on Literary and Artistic Property. • Law 17616. on Copyright and related rights.	• The management of the domain .uy was delegated by the Internet Assigned Numbers Authority (IANA) to the Universidad de la República, the Central Service of Juridical Informatics (SECIU), and the Uruguayan Academic Network (RAU). • The domain name .com.uy is managed by the National Telecommunication Administration (ANTEL) through delegation to the SECIU. • Arbitration rules of the Conciliation and Arbitration Center of the Uruguay Stock Exchange, International Arbitration Court of MERCOSUR, which includes provisions on the Uniform Domain-Name Dispute-Resolution Policy of ICANN.	• Law 18083 – Tax System. Sales generated by the production of logical supports and other developments in biotechnology and bio-informatics are exempt of corporate income tax and income tax for natural persons. • Decree 208/007 regulating tax exemptions on the income for natural persons in matters related with new technologies. Decree 150/007. Declaration of national interest of the productive activities of the software sector, under conditions of international competition and the tax exemption for income derived from productive activities of logical supports. Decree 632/006 extending the term of the income tax exemption until 31 December 2009, for Industry and Commerce related with the production of logical supports. • Resolution 341/003. System of tax declaration for certain taxpayers through the Internet.

Venezuela

Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property rights	Domain names	Taxation and customs
• Data Message and Electronic Signatures Law **[UNCITRAL e-Signature]** • Partial Regulations of the Decree Law on Data Messages and Electronic Signatures • Decree 3.390 (Organic Law on Science, Technology and Innovation) • Organic Law on Public Administration • Bidding Law • Public Registrars and Notaries Act • Priority Policy for the Cultural, Economic, Social and Political Development of the Bolivarian Republic of Venezuela	• Data Message and Electronic Signatures Act **[UNCITRAL e-Signature]** • Organic Law on Public Administration • Public Registrars and Notaries Act • Organic Tax Code	• Law for the Protection of Persons in Accessing Goods and Services • Organic Telecommunications Law • Administrative Ruling 1085 of 2007 (Technical standards on public signs, provisions and mechanisms for security in computer, electronic and multi-media game and internet venues) • The Organic Law for the Protection of Children and Adolescents • Trade Arbitration Act **[UNCITRAL International Trade Arbitration Act]**	• Constitution (Articles 28 and 60) • Decree 3.390 (Organic Law on Science, Technology and Innovation) • Law for the Protection of Persons in Accessing Goods and Services • Organic Telecommunications Law • Administrative Ruling establishing overall conditions for general administrative powers, 2006 • Draft Information Technologies bill	• Special computer crimes law	• Copyright Law • Industrial Property Law • Decision 351 (Common Copyright and Related Rights Regime) **[Commission of the Andean Community]** • Decision 486 (Common Industrial Property Regime) **[Commission of the Andean Community]** • Berne Convention **[WIPO]** • Rome Convention **[WIPO]** • WIPO Internet Treaties **[WIPO]**	• NIC.ve is administered and managed by CONATEL • Domain name dispute resolution policy. WIPO Arbitration and Mediation Centre **[WIPO]**	• Organic Tax Code

Current state of regulatory frameworks in the region's countries

The following table is based on the information in section II (Report on Regulations in the Participating Countries). It indicates major advances in harmonizing legal frameworks in the areas of electronic transactions, and electronic signature and authentication, an area that draws on the UNCITRAL Model Laws on e-Commerce and e-Signature, as well as on intellectual property rights. In this regard, a number of countries have signed treaties administered by WIPO. The table reflects less pronounced advances in harmonization of consumer protections, personal data protections, computer crimes, domain names, taxes and customs.

Table of regulatory frameworks of ALADI countries

Country	Electronic transactions	Electronic signature and authentication	Consumer protection	Protection of data	Computer crime	Intellectual property rights	Domain names	Taxation and customs
Argentina								
Bolivia								
Chile								
Colombia								
Cuba								
Ecuador								
Mexico								
Paraguay								
Peru								
Uruguay								
Venezuela								

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Argentina:

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2. Decree 2628/2002. http://infoleg.mecon.gov.ar/infolegInternet/anexos/80000-84999/80733/norma.htm
3. Decree 724/2006. http://infoleg.mecon.gov.ar/infolegInternet/anexos/115000-119999/116998/norma.htm
4. Decree 1023 de 2001. Contract regime for the national administration. http://infoleg.mecon.gov.ar/infolegInternet/anexos/65000-69999/68396/texact.htm
5. Decree 1818/2006. Regulation for the acquisition, expropriation and contracting of goods and services of the National State. http://infoleg.mecon.gov.ar/infolegInternet/anexos/120000-124999/122927/norma.htm
6. Additions to the Law 25.506. http://www.pki.gov.ar/index.php?option=com_content&task=view&id=413&Itemid=227
7. Administrative Decision 6/2007. Digital Signature. http://infoleg.gov.ar/infolegInternet/anexos/125000-129999/125115/norma.htm
8. MERCOSUR/CMC/DEC. Nº 19/05. http://www.protecciondedatos.com.ar/cmc19.htm
9. National Office for the Protection of Personal Data. http://www.jus.gov.ar/dnpdpnew/
10. Ethical and conduct codes on the protection of personal data. http://www.protecciondedatos.com.ar/legislacion.htm#legis7
11. Provision 4/2004. National Office for the Protection of Personal Data. http://www.infoleg.gov.ar/infolegInternet/anexos/100000-104999/101360/norma.htm
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14. Jurisprudence on Habeas Data. http://www.protecciondedatos.com.ar/jurisp24.htm
15. Administrative decision 6/2007. Digital Signature. http://infoleg.gov.ar/infolegInternet/anexos/125000-129999/125115/norma.htm
16. Administrative decision 669/2004. Policy on information security http://infoleg.mecon.gov.ar/infolegInternet/anexos/100000-104999/102188/norma.htm
17. Coordination of emergencies in information networks. http://www.arcert.gov.ar/
18. Proposed law on computer crime. http://www1.hcdn.gov.ar/dependencias/dsecretaria/Periodo2006/PDF2006/SANCIONES/5864-D-2006.pdf

Plurinational State of Bolivia

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2. Commercial code. http://www2.minedu.gov.bo/pre/ley/CodComercio.pdf
3. Constitutional Court. http://www.tribunalconstitucional.gov.bo/
4. Andean Community. http://www.comunidadandina.org/
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