



Asia-Pacific
Economic Cooperation

2006/SOM1/ECSG/SYM/008

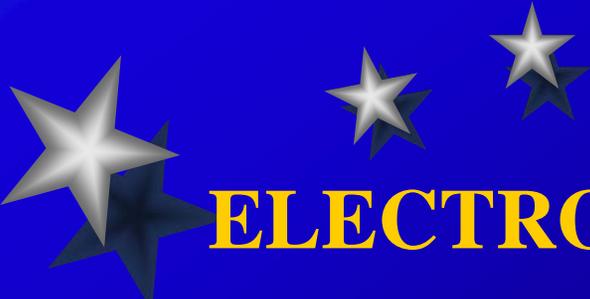
Agenda Item: 6

Vietnam Electronic Transaction Law 2005

Purpose: Information
Submitted by: Viet Nam



**APEC Symposium on Information
Privacy Protection in E-Government
and E-Commerce
Ha Noi, Viet Nam
20-22 February 2006**



**VIETNAM
ELECTRONIC TRANSACTION LAW
2005**

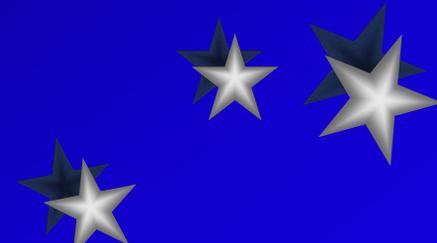
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General Secretary



Topics

- **The need to enact the E Transaction Law (ETL)**
- **Objectives of ETL**
- **Basic Principles of the ET Law**
- **Construction and core provisions**
- **Affect to society**

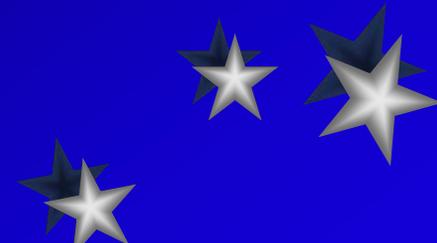


The need to enact the ETL

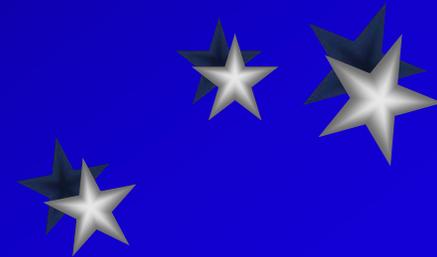
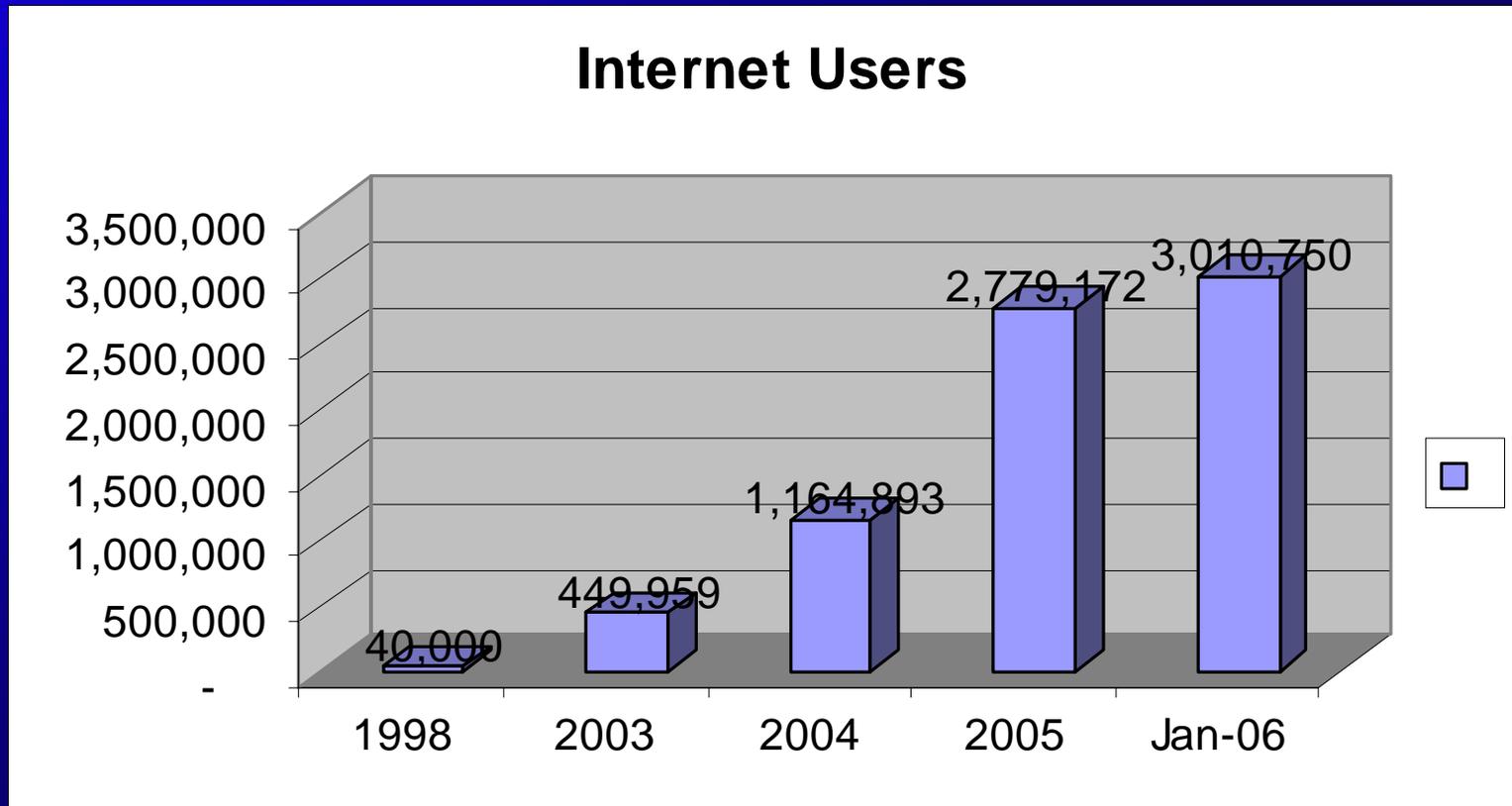
1. Requirement of ICT application in Vietnam

Vietnam has a big progress on development and application of ICT in the last 10 years

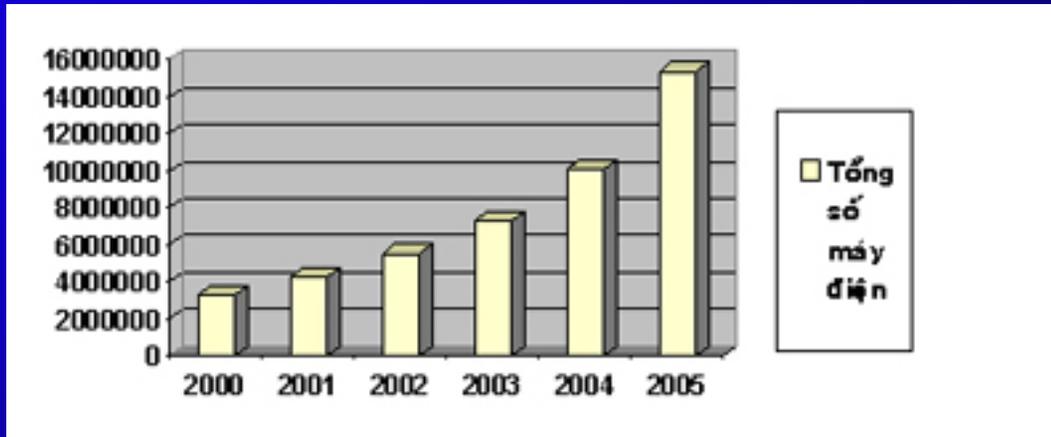
- Number of PC increase minimum 300,000 Pcs/year
- International bandwidth : increase from 2 MBps in 1997 to 3,615 Mbps 1/2006
- Internet users penetration : 12.90 %



The need to enact the ETL

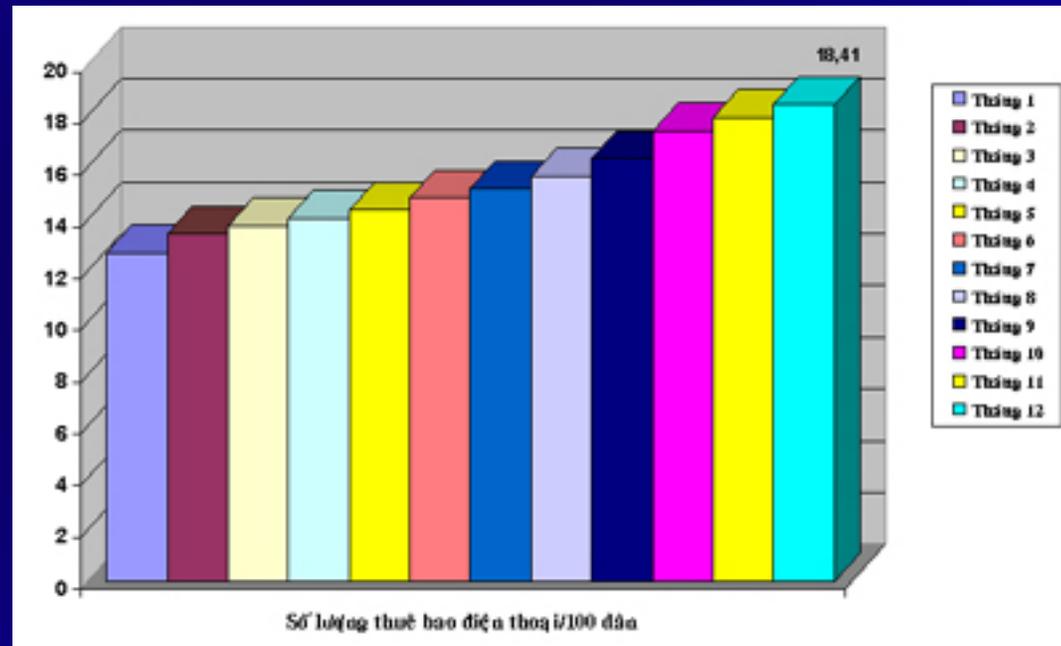


The need to enact the ETL



Telephone Subscribers

Telephone penetration



E-learning readiness and e-readiness



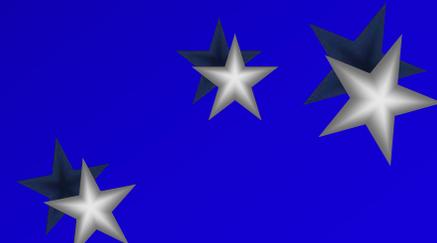
* UNCTAD based on EIU (2003a) and EIU (2003b).

The need to enact the ETL

- The governmental backbone is established since 2001
- Large activities on E. Commerce

Lack of laws and regulations to recognize the legal validity of electronic transaction

- Parallel existing 2 systems : Traditional system and computerizing system
- Invest to ICT is not effectively



The need to enact the ETL

2. Adapt existing law system requirements

3. Requirement of the integration in the region and global



E ASEAN framework Agreement



Objectives of ETL

This law is contrued to obtain and give effects to the following purposes :

- ◆ To provide a legal environment for use and security of E transaction
- ◆ To facilitate and promote the realizing of E Government, E Commerce
- ◆ To spead up the administration Reform
- ◆ To Enhance the Economy development and international Integration



Basic principles of ETL

The E Transaction Law was contrued and developed based on these principles

- **Functional equivalence**

- Analyze traditional form of transaction in the society based on paper (“writing”, “record”, “signature”, “original”), voice .
- Analyze the provisions of existing law : Civil law, Commerce law,...according these functions
- Consider criteria necessary to replicate those functions and give data message, e- signature the same level of recognition as information on paper

- **Eliminate barriers to use E Transaction**



Basic principles of ETL

- **Technology and Media neutrality**

- Equal treatment of paper-based and electronic transactions
- Equal treatment of different techniques (EDI, e-mail, Internet, telegram, telex, fax); No technology shall be considered as a sole [technology] in e-transactions

- **Party autonomy**

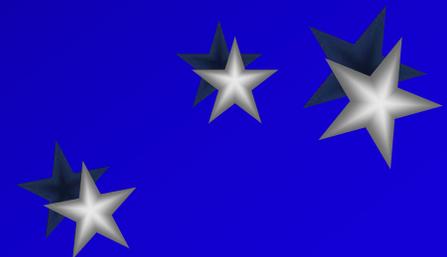
- Voluntarily select to use electronic Transaction or traditional way .
- Primacy of party agreement on whether and how to use e transaction techniques
- Parties free to choose security level appropriate for their transactions



Basic principles of ETL

- **In accordance with the international laws and regulations.**

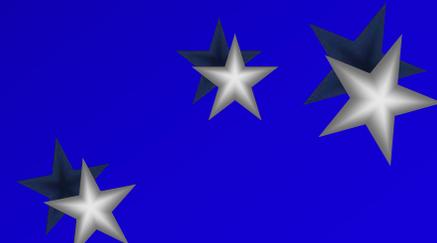
The Vietnam ETL 2005 follows closely the UNCITRAL Model Law on Electronic Commerce, which sets the framework for electronic laws in many countries.



Construction and core provisions

Construction

- **VN ETL 2005 consists of 8 Chapters and 54 Articles**
- **The Electronic Transaction Law was introduced in Parliament in May 2005, and passed on 29 November 2005. The Law will come into force on 1 March 2006.**



Core provisions :

1. **General Principles in using E-Transactions :**
Article 5. (Voluntary, free choice, Party autonomy)

2. **Legal recognition of Data Message : Chapitre II**

- **Legal Recognition** : **Article 11**
- **Writing** : **Article 12**
- **Original** : **Article 13**
- **Evidence** : **Article 14**
- **Storage** : **Article 15**

Equal treatment of Paper-based and Electronic Transaction



Construction and core provisions

Core provisions :

3. Legal recognition of E Signature : Chapitre III

- Legal Recognition of E Signature : Article 24
Where a rule of law requires a signature, an electronic signature satisfies that rule of law.
- Principles of using E Signature : Article 23

4. E. Signature Certification (CA) and CA Service

- CA Activities : Article 28
- CA Organizations : Article 30



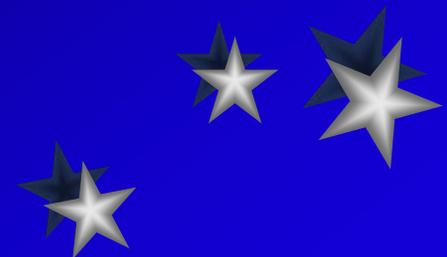
Construction and core provisions

Core provisions :

5. E Transaction in the State Agencies : CHAPTER V (G2G, G2B,G2C)

6. Confidentiality, Security and safety in E Transaction : Chapter VI

- Ensuring Security and Safety in E-transactions : Article 44.
- Protection of Data Message : Article 45.
- Information Confidentiality in E-transactions : Article 46.
- Liability of Network Service Provider : Article 47.



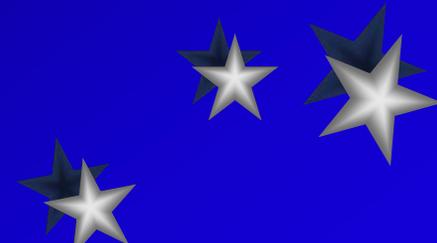
Core provisions :

Article 45. Protection of Data Message :

- *Agencies, organizations, individuals are not allowed to take any action that affects the integrity of data messages of other agencies, organizations and individuals .*

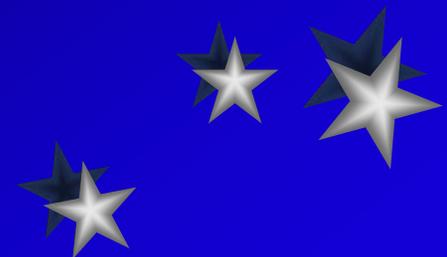
Article 46. Information Confidentiality in E-transactions :

2. *Agencies, organizations, individuals are not allowed to use, provide or disclose part or all of information related to private and personal affairs or information of other agencies, organizations, individuals which is accessible by or under the control in e-transactions*



Other provisions of VN ETL 2005

- ➔ **Prohibited activities in e-transactions** : Article 9.
- ➔ **Time and Place of dispatch Data Message** : Article 17.
- ➔ **Time and Place of receipt Data Message** : Article 19.
- ➔ **Electronic Contract** : Chapter IV
- ➔ **Dispute settlement and Handling breaches** : Chapter VII



Affect to society

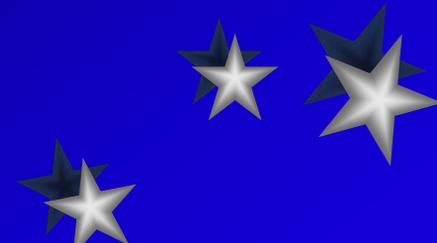
The Law has a large scope of application

➔ Article 1.

1. *This Law provides provisions on e-transactions in operations of State bodies, civil, business and other sectors as provided by the laws.*

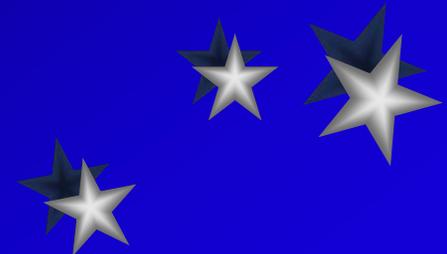
➔ Article 2. Scope of Application

- *This Law shall apply to bodies, organizations, individuals selecting to use E. transact*



Affect to society

- **ETL 2005 provides a strong legislative support to agencies, organizations and individuals to apply ICT in their activities,**
- **Speed up the realizing of : E. Commerce, E. Government, E. Learning,.....in the Country**
- **Affect to the ICT market**



Affect to society

Base on this law ministries are going to draft the followings decrees :

- **E. Commerce**
- **E Transaction on the area of Finance : Tax online, E Customs, E Accounting,....**
- **E Transaction in banking : E Payement**
- **Digital Signature and CA**
- **E Transaction in State Agencies**

Several Seminars and meetings will be organized to discuss and address to the issues, how to attain the objectives of the law after the Law come into force

Thank for your attention



