

Prospects and challenges for the development of e-commerce in Zimbabwe: A legal perspective

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SUMMARY

The emergence of the digital economy has resulted in a wave of automation that has fundamentally altered peoples' lives. The digital economy through e-commerce has stirred an economic revolution which has shifted the traditional marketplace to a virtual marketplace, thereby enabling people to conduct trade without any form of physical contact. Due to its unprecedented advantages, e-commerce has offered a unique opportunity for developing countries, particularly those in Africa, to participate and contribute to global trade. Despite its numerous advantages, countries such as Zimbabwe are grappling with harnessing the advantages of e-commerce in a way that contributes to economic development. It is within this context that the article examines the regulation of e-commerce in Zimbabwe, and it questions whether the current legal framework is adequate to accommodate and promote the development of e-commerce in the digital economy. The article observes that the current regulation of e-commerce in Zimbabwe is archaic, fragmented and inadequate. The article further discusses some challenges that are inhibiting the successful adoption of e-commerce in Zimbabwe and proffer recommendations that might enable the country to harness the benefits of e-commerce and effectively participate in the digital economy.

1 Introduction

The rapid expansion of e-commerce has intensified discussions around the necessity of creating legal frameworks that enable and sustain economic growth.¹ The traditional principles of commercial law were mainly crafted to cater for paper-based transactions during a time where e-commerce could not have been contemplated.² As such, it has become necessary to develop frameworks to address some of the regulatory challenges that accompanied the development of e-commerce.³ In

- 1 World Trade Organisation "E-commerce, Trade and the Covid-19 Pandemic" 2020 https://www.wto.org/english/tratop_e/covid19_e/ecommerce_report_e.pdf (last accessed 2024-04-23); see Elrhim and Elsayed "The Effect of Covid-19 Spread on the E-commerce Market: The Case of the 5 largest E-Commerce Companies in the World" 2020 *SSRN Electronic Journal* 2.
- 2 Pistorius "The Legal Effect of Input Errors in Automated Transactions: The South African Matrix" 2008 *Journal of Information, Law & Technology* 3.

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response to these challenges, various international, regional and sub-regional frameworks on e-commerce have been adopted. Despite the presence of these instruments, African countries such as Zimbabwe are still grappling with the regulation of e-commerce and have therefore not harnessed the benefits of e-commerce in a way that contributes to economic development.⁴

This article examines the current legal regime of e-commerce in Zimbabwe and questions whether the current legal framework is adequate to promote the development of e-commerce in the digital economy. Despite the presence of international, regional and sub-regional frameworks, the article posits that Zimbabwe has not yet managed to adopt a comprehensive regulatory framework on e-commerce. Accordingly, the article argues that the regulation of e-commerce in Zimbabwe is archaic, fragmented and inadequate to promote the development of e-commerce. Further, the article contends that Zimbabwe is facing a myriad of challenges that includes lack of adequate technological infrastructure, lack of Information and Communications Technologies (ICT) awareness and an overall legal environment that discourages the use of e-commerce. To this end, the paper provides recommendations that may enable Zimbabwe to participate in the digital economy through the development of e-commerce.

2 Defining e-commerce

There is no universally accepted definition of e-commerce. However, the World Trade Organisation's Work Programme on E-commerce (WTO Work Programme) defines e-commerce as "the production, distribution, marketing, sale, or delivery of goods and services by electronic means."⁵ Although the definition provided by the WTO Work Programme is regarded as the official definition of the World Trade Organisation (WTO), it is generally criticised as being too broad when compared to definitions used by other international organisations.⁶ In an attempt to provide a comprehensive definition of e-commerce, the Organisation for Economic Co-operation and Development (OECD) international working group on e-commerce defines an e-commerce transaction as

3 As above.

4 United Nations Conference on Trade and Development "E-transactions legislation world-wide" <https://unctad.org/page/e-transactions-legislation-worldwide> (last accessed 2024-06-06).

5 World Trade Organisation "Electronic Commerce" https://www.wto.org/english/thewto_e/minist_e/mc11_e/briefing_notes_e/bfecom_e.htm (last accessed 2024-06-03).

6 Organisation for Economic Co-operation and Development "Understanding e-commerce" <https://www.oecd-ilibrary.org/docserver/1885800a-en.pdf?expires=1725970708&id=id&accname=guest&checksum=D13CB54E86C0ABEBB2F73FF3933B2130> (last accessed 2024-05-20).

the sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders. The goods or services are ordered by those methods, but the payment and the ultimate delivery of the goods or services do not have to be conducted online. An e-commerce transaction can be between enterprises, households, individuals, governments, and other public or private organisations.⁷

Unlike the broad definition provided by the WTO, the OECD definition clarifies that e-commerce does not cover all activities performed over computer networks, but that it is restricted only to activities specifically intended for buying and selling.⁸ The definition also includes digital products and provides various categories of e-commerce such as business to consumer (B2C), government to government (G2G), business to government (B2G), consumer-to-consumer (C2C), consumer to business (C2B) and business to business (B2B).⁹ Further, the term “computer networks” in this definition has been deliberately used to accommodate changes in how e-commerce may be conducted in the future.¹⁰ As a result, the OECD has been commended for providing a conceptual understanding of e-commerce that is coherent, pragmatic and reflects the changing needs and the circumstances of the real world.¹¹

3 E-commerce as a driver of the digital economy

E-commerce lies at the centre of the digital economy as it facilitates its growth and development.¹² The impact of e-commerce in the digital economy is its ability to reduce the cost of doing business within and across borders.¹³ E-commerce has thus brought about unique opportunities for SMEs particularly in marginalised countries to access

7 The definition provided by the OECD is a combination of the narrow and broad definition of e-commerce which were initially provided by the OECD international working group on e-commerce in 2001. See Dhar “Electronic Commerce and the WTO: The Changing Contours of Engagement” 2017 <https://www.madhyam.org.in/wp-content/uploads/2017/11/BP-21-on-e-commerce-WTO.pdf> (last accessed 2024-07-28).

8 Vancauteren “E-commerce” in United Nations Economic Commission for Europe *The Impact of Globalisation on National Accounts* (2011) 250.

9 Dhar “Electronic Commerce and the WTO: The Changing Contours of Engagement” 2017 <https://www.madhyam.org.in/wp-content/uploads/2017/11/BP-21-on-e-commerce-WTO.pdf> (last accessed 2024-07-28).

10 Vancauteren “E-commerce” in United Nations Economic Commission for Europe United Nations Economic Commission for Europe *The Impact of Globalisation on National Accounts* (2011) 251.

11 Dhar “Electronic Commerce and the WTO: The Changing Contours of Engagement” 2017 <https://www.madhyam.org.in/wp-content/uploads/2017/11/BP-21-on-e-commerce-WTO.pdf> (last accessed 2024-07-28).

12 Unold 2003 *Folia Oeconomica* 42.

13 World Bank “Electronic Commerce and Developing Countries” http://documents.worldbank.org/curated/en/331951468330024039/310436360_20050012024139/additional/multi-page.pdf (last accessed 2024-05-13).

both domestic and foreign markets at low cost.¹⁴ Accordingly, just like lifting trade barriers, e-commerce makes it easier for businesses to conduct business and participate in global trade.¹⁵ In this regard, the World Economic Forum (WEF) highlights the importance of it for developing countries, particularly African countries, to overcome obstacles that hinder the development of e-commerce and to benefit from the digital economy.¹⁶ It submits that the benefits of e-commerce in the digital economy include

... opening markets to otherwise isolated rural communities and servicing Africa's fast-growing consumer class. Through digital tools, women entrepreneurs can tap into e-business opportunities, where previously social norms or family duties may have kept them out of the traditional workforce. African e-commerce can be a force for sustainable development.¹⁷

Accordingly, if effectively utilised and taken advantage of, e-commerce has the potential to help African countries to improve trade efficiency and facilitate the integration and participation of African countries into the digital economy.¹⁸ However, many African countries have not yet managed to create legal environments that enable them to participate in the digital economy and optimise its benefits.¹⁹ In this regard, it has been postulated that "within a framework of global governance a national strategy is pertinent for developing countries to create an enabling and equitable digital economy for social inclusion and economic prosperity and to create the safe, secure and trusted environment required for the digital economy to flourish."²⁰

4 An assessment of Zimbabwe's international obligations on the regulation of e-commerce

Following its membership in various international and regional organisations, Zimbabwe has the obligation to develop a domestic legal framework on e-commerce in line with international instruments. This

14 See Regional Infrastructure Development Master Plan: Information and Communication Technologies Sector Plan (2012) https://www.sadc.int/files/9413/5293/3532/Regional_Infrastructure_Development_Master_Plan_ICT_Sector_Plan.pdf (last accessed 2024-05-13).

15 Terzia "The Impact of E-commerce on International Trade and Employment" 2011 *Procedia Social and Behavioral Sciences* 746.

16 World Economic Forum "8 Ways to Help African E-commerce Fulfil its Potential" 2019, <https://www.weforum.org/agenda/2019/09/8-ways-to-help-african-ecommerce-fulfil-its-potential/> (last accessed 2024-08-20).

17 As above.

18 As above.

19 Bukht and Heeks "Development Implications of Digital Economies" 2018 <https://diode.network/wp-content/uploads/2017/08/diwpkpr68-diode.pdf> (last accessed 2024-08-20).

20 Razzano *et al* "The Digital Economy and Society" https://researchictafrica.net/wp/wp-content/uploads/2020/11/digital-economy-report_04.pdf (last accessed 2024-08-20).

section discusses various international and regional instruments on e-commerce that Zimbabwe is party to, and it aims to ascertain whether Zimbabwe has ratified or adopted these legal instruments in its domestic legal framework. At international level, this section focuses on the United Nations Commission on International Trade Law (UNCITRAL) Model Law on E-commerce (MLEC), the Model Law on Electronic Signatures (MLES) and the United Nations Convention on the Use of Electronic Communications in International Contracts (UN Convention). At the regional level, it discusses the African Continental Free Trade Agreement (AfCFTA) Protocol on Digital Trade and the Southern African Development Community (SADC) Model Law on E-commerce.

4 1 Model Law on Electronic Commerce

The MLEC was developed as a legal response to the fact that a number of countries did not have legislation that contemplated the use of e-commerce.²¹ Given that the MLEC was adopted at a time where an international legal framework on e-commerce did not exist, it is generally considered as the first comprehensive legal instrument to provide the basic principles of e-commerce.²² Accordingly, Sorieul, Clift and Estrella-Faria describe the MLEC as an instrument of preventive harmonisation - one which led the process of developing law by providing a universally acceptable solution to the issues likely to arise, rather than one that was negotiated after practices and usage had already developed.²³

The MLEC does not form a binding distinct set of rules, rather it is meant to establish principles and guidelines that may assist legislators when drafting e-commerce laws.²⁴ Member States are therefore not mandated to enact the provisions of the MLEC in national laws, rather national legislators have the freedom to adopt appropriate provisions into existing legislation if they choose to.²⁵ According to its preamble, the MLEC mainly “seeks to facilitate the use of e-commerce through the development of internationally accepted rules that eradicate unnecessary impediments to international trade that may be caused by inadequacies or divergences of laws.”²⁶ The guide to enactment of the MLEC provides a non-exhaustive list of the general principles on which the MLEC is based on. These principles include: (i) to facilitate electronic commerce among and within nations, (ii) to validate transactions entered into by means of new information technologies, (iii) to promote

21 The MLEC was adopted by resolution A/51/628 of the United Nations General Assembly. See paragraph 3 of the Guide to Enactment of the MLEC 1996.

22 Sengpunya “ASEAN E-commerce Legal Framework: Towards the Development and Prospects” 2019 *JOUR* 95.

23 Sorieul, Clift and Estrella-Faria “Establishing a Legal Framework for Electronic Commerce: The Work of the United Nations Commission on International Trade Law (UNCITRAL)” 2001 *The International Lawyer* 109.

24 Guide to Enactment of the MLEC 1996, paragraph 13.

25 Sorieul, Clift and Estrella-Faria 2001 *The International Lawyer* 109.

26 See paragraph 1 of the Preamble to the MLEC; Davidson *The Law on Electronic Commerce* (2009) 26.

and encourage the implementation of new information technologies, (iv) to promote the uniformity of law and (v) to support commercial practice.²⁷

Broadly, the MLEC deals with various provisions on application on legal requirements to data messages,²⁸ communication of data messages²⁹ as well as carriage of goods.³⁰ Since the time of its adoption in 1996, the MLEC has received wide acceptance across the world.³¹ 81 States have enacted legislation that is based on or influenced by the MLEC.³² However, unlike other countries, Zimbabwe has not yet adopted legislation that is influenced by the MLEC.³³ Among other issues, the MLEC was not adopted as a binding legal instrument but rather to provide guidelines which member states may choose to incorporate in their legal frameworks. Further, lack of domestication of the MLEC signifies lack of prioritisation of e-commerce laws within the country. According to the UNCTAD, the country lacks data-driven oversight of e-commerce market developments and “there is no harmonised system to record e-commerce activities and collect statistics based on international standards.”³⁴

4 2 Model law on electronic signatures

Following the adoption of the MLEC in 1996, the MLES was adopted in 2001.³⁵ Just like the MLEC, the MLES was not adopted as a binding legal instrument but rather it was drafted with the aim of assisting states to establish a harmonised legal framework that deal effectively with issues of electronic signatures.³⁶ The MLES also aims to promote the understanding of electronic signatures and their reliability in commercial transactions.³⁷ Further, it advocates for fair treatment between users of paper-based documents and users of computer-based information.³⁸ The MLES also seeks to create a media-neutral environment where equal treatment is given to all information generated, stored or communicated, irrespective of the medium on which such information may be affixed.³⁹

27 Guide to Enactment of the MLEC 1996, paragraph 43.

28 See Chapter II of the MLEC.

29 See Chapter III of the MLEC.

30 See Part Two of the MLEC.

31 See the Status of the UNCITRAL Model Law on Electronic Commerce 1996 https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce/status (last accessed 2024-08-05).

32 As above.

33 As above.

34 United Nations Conference on Trade and Development “Zimbabwe eTrade Readiness Assessment” UNCTAD/DTL/ECDE/2025/2.

35 Resolution adopted by the General Assembly on the report of the Sixth Committee (A/56/588) 56/80 Model Law on Electronic Signatures.

36 Guide to Enactment of the MLES 2001, paragraph 3.

37 Guide to Enactment of the MLES 2001, paragraph 4.

38 Guide to Enactment of the MLES 2001, paragraph 5.

39 As above.

The technology neutrality principle is regarded as one of the cornerstones of the MLES.⁴⁰ This principle forbids discrimination among the various techniques that may be used to communicate or store information electronically.⁴¹ Although the MLES was adopted in 2001, only 37 Member States have adopted legislation that is based on or influenced by the MLES.⁴² However, unlike other countries, Zimbabwe has not yet adopted legislation that is influenced by or based upon the MLES.⁴³ This is mainly because the legal instrument is not binding hence states have the discretion to incorporate it in their domestic frameworks as they see fit. Further, as highlighted above, Zimbabwe lacks prioritisation in the domestication of e-commerce related legislation. This is evidenced by the current legal framework for electronic signatures which is outdated and inadequate to support the development of a digital market within the country.⁴⁴

4 3 The United Nations Convention on the use of electronic communications in international contracts

Although the MLEC and the MLES managed to establish legal rules that encouraged uniformity in domestic e-commerce laws, these model laws had inherent weaknesses emanating from the fact that they are soft law therefore not binding upon Member States.⁴⁵ The weaknesses presented in the MLEC and MLES led to the adoption of the UN Convention.⁴⁶ The main objective of the UN Convention is to establish “uniform rules that are intended to remove obstacles to the use of electronic communications in international contracts, including obstacles that might result from the operation of existing international trade law instruments, with a view to enhancing legal certainty and commercial predictability.”⁴⁷ To this end, the UN Convention is meant to provide common legal solutions that remove unnecessary legal impediments to the use of electronic communications including e-commerce in a way that accommodates countries with different legal, social and economic systems.⁴⁸

The UN Convention is predicated upon the realisation that legal requirements that prescribe the use of traditional paper-based

40 As above.

41 As above.

42 See the Status of the UNCITRAL Model Law on Electronic Signatures 2001 https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_signatures/status (last accessed 2024-08-23).

43 As above.

44 United Nations Conference on Trade and Development “Zimbabwe eTrade Readiness Assessment” UNCTAD/DTL/ECDE/2025/2.

45 Castellani “The United Nations Convention on the Use of Electronic Communications in International Contracts at Ten: Practical Relevance and Lessons Learned” 2016 *Journal of Law, Society and Development Multi-, Inter- and Trans-disciplinary* 146.

46 As above.

47 See the Preamble to the UN Convention 2005, paragraph 4.

48 See the Preamble to the UN Convention 2005, paragraph 6.

documentation create significant obstacles to the development of modern means of communication.⁴⁹ Accordingly, the UN Convention seeks to remove obstacles to e-commerce caused by domestic or international form requirements such as writing, signature and original, with a view of incorporating computer-based techniques.⁵⁰ In order to achieve this aim, the UN Convention relies on the “functional equivalent approach” which is basically based on how the traditional paper-based requirements could be fulfilled through e-commerce techniques.⁵¹ The UN Convention thus provides criteria which once met equates electronic communications with corresponding paper documents performing the same function.⁵²

The UN Convention further relies on “technological neutrality.”⁵³ This means that the law recognises different forms of technologies and does not discriminate between them.⁵⁴ This principle recognises “the speed of technological innovation and development and helps to ensure that the law is able to accommodate future developments and does not quickly become out-dated.”⁵⁵ The provisions of the UN Convention are also intended to improve the efficiency of cross-border commercial activities and enhance trade connections thereby allowing access to new opportunities for previously remote markets.⁵⁶ As such, the UN Convention seeks to play a significant role in promoting trade and economic development, both domestically and internationally in the digital era.⁵⁷

Unlike the MLEC and the MLES which do not create binding obligation on Member States, the UN Convention is the first international instrument to regulate e-commerce in a binding manner. Despite its success in creating standards for e-commerce at the global level, Zimbabwe has not yet ratified the legal instrument.⁵⁸ Given that Zimbabwe follows the dualist approach in the application of international

49 Explanatory note by the UNCITRAL Secretariat on the UN Convention, paragraph 50.

50 As above.

51 Explanatory note by the UNCITRAL Secretariat on the UN Convention paragraph 51.

52 As above.

53 Explanatory note by the UNCITRAL Secretariat on the UN Convention paragraph 48.

54 Explanatory note by the UNCITRAL Secretariat on the UN Convention paragraph 47.

55 Explanatory note by the UNCITRAL Secretariat on the UN Convention 48; Sieg Eiselen “The UNCITRAL: International Trade in The Digital Era” 2007 *PER* 21-22.

56 Explanatory note by the UNCITRAL Secretariat on the UN Convention paragraph 37.

57 As above.

58 United Nations Conference on Trade and Development “Zimbabwe eTrade Readiness Assessment” UNCTAD/DTL/ECDE/2025/2.

law, the UN Convention does not have legal effect in Zimbabwe.⁵⁹ The failure of Zimbabwe to domesticate the UN Convention reveals lack of understanding of the importance of legal rules on e-commerce at national level. Further, it reveals the lack of effective domestic institutions that ensure the timely adoption and implementation of international instruments in domestic legal frameworks. Domestication of international instruments is pertinent as it enhances legal certainty and enables the expansion of businesses beyond domestic borders.⁶⁰

4 4 Protocol to the Agreement Establishing the African Continental Free Trade Area on Digital Trade

The African Continental Free Trade Area (AfCFTA) is one of the Flagship Projects of the African Union (AU) which was approved in 2012 and entered into force in 2019.⁶¹ As a member of the AU, Zimbabwe ratified the Agreement establishing the AfCFTA on 24 May 2019, and as such, it is bound by the Agreement establishing the AfCFTA with its various annexes.⁶² In the area of e-commerce, the Protocol to the Agreement Establishing the African Continental Free Trade Area on Digital Trade (Protocol on Digital Trade) was recently adopted by the African head of states in February 2024.⁶³ The major objective of the Protocol on Digital Trade is to establish “harmonised rules and common principles and standards that enable and support digital trade for sustainable and inclusive socio-economic development and the digital transformation of the continent.”⁶⁴ Among other issues, the legal instrument addresses issues such as market access of digital goods,⁶⁵ non-discrimination of digital products,⁶⁶ facilitation of digital trade,⁶⁷ data governance,⁶⁸ and

59 See s327 (2) of the Constitution of Zimbabwe which states that “an international treaty which has been concluded or executed by the President or under the President’s author (a) does not bind Zimbabwe until it has been approved by Parliament; and (b) does not form part of the law of Zimbabwe unless it has been incorporated into the law through an Act of Parliament.”

60 United Nations Conference on Trade and Development “Zimbabwe eTrade Readiness Assessment” UNCTAD/DTL/ECDE/2025/2.

61 Among other aims, the AfCFTA seeks to create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of an integrated, prosperous and peaceful Africa” enshrined in Agenda 2063.” See Article 3 of the Agreement establishing the AfCFTA.

62 The Agreement establishing the AfCFTA has various annexes that regulate different areas of trade. See article 8 Agreement Establishing the AfCFTA.

63 Stuart “The Digital Trade Protocol of the AfCFTA and Digitally-Driven Development in Africa” <https://www.tralac.org/blog/article/16306-the-digital-trade-protocol-of-the-afcfta-and-digitally-driven-development-in-africa.html> 2024 (last accessed 2024-08-02).

64 See Article 2 of the AfCFTA Protocol on Digital Trade.

65 Part II of the AfCFTA Protocol on Digital Trade.

66 Article 7 of the AfCFTA Protocol on Digital Trade.

67 Part III of the AfCFTA Protocol on Digital Trade.

68 Part IV of the AfCFTA Protocol on Digital Trade.

online consumer protection.⁶⁹ The Protocol further highlights the importance of digital inclusion, transparency and technical assistance and cooperation in order to facilitate the implementation of the Protocol of Member States.⁷⁰

The adoption of the Protocol on Digital Trade is a significant milestone in Zimbabwe's digital economy.⁷¹ This is mainly because the legal instrument is the first comprehensive regional instrument on e-commerce to create some binding obligations on Zimbabwe. However, a key challenge to the implementation of the Protocol on Digital Trade is lack of a domestic framework and technological infrastructure that enables Zimbabwe to effectively take advantage of the legal instrument.⁷²

5 SADC Model Law on Electronic Transactions and Electronic Commerce

The SADC Model Law on Electronic Transactions and Electronic Commerce (SADC Model Law) was adopted by the SADC Ministers responsible for Telecommunications, Postal and ICT in 2012 in order to provide guidance on the domestic regulation of e-commerce to SADC Member States.⁷³ The framework provide guidance on issues relating to electronic communications, electronic transactions, electronic signatures, admissibility and evidentiary weight of electronic evidence, the protection of e-commerce consumers and the liability of service providers.⁷⁴ Although the SADC Model Law does not create binding obligations to Zimbabwe as a Member of the SADC, its adoption

69 Part V of the AfCFTA Protocol on Digital Trade.

70 Stuart "The Digital Trade Protocol of the AfCFTA and Digitally-Driven Development in Africa" <https://www.tralac.org/blog/article/16306-the-digital-trade-protocol-of-the-afcfta-and-digitally-driven-development-in-africa.html>2024 (last accessed 2024-08-02).

71 Lemma "Framework to assess the impact of the AfCFTA Protocol on Digital Trade" 2024 https://media.odi.org/documents/ODI_Report__Framework_to_assess_the_impact_of_the_AfCFTA_Protocol_on_Digital__qdV1YUQ.pdf (last accessed 2024-08-09).

72 As above. See also Tempest "The Digital Economy and Ecommerce in Africa - Drivers of the African Free Trade Area?" 2020 https://saiia.org.za/wp-content/uploads/2020/05/The-digital-economy-and-e-commerce-in-Africa_Special-Report.pdf (last accessed 2024-08-10).

73 The SADC Model Law is a product of the International Telecommunication Union (ITU) and the European Commission (EC) worked together and signed an agreement which was aimed at providing "Support for the Establishment of Harmonised Policies for the ICT market in the African Caribbean and Pacific countries (ACP)." The project was divided into 3 separate sub-regional projects namely "the Harmonisation of ICT Policies in Sub-Saharan Africa (HIPSSA), Harmonisation of ICT Policies in Caribbean (HIPCAR) and the Capacity Building and ICT policy, Regulatory and Legislative frameworks Support for Pacific Island Countries (ICB4PAC). See the SADC Model Law on Electronic Transactions and Electronic Commerce.

74 As above.

stimulated the development of the Electronic Transactions and Electronic Commerce in 2013. Although the Bill was finally approved by the cabinet in 2021, it has not yet been formally enacted into law and its revision is on the agenda of the 10th Parliament which commenced its functions in late 2023.⁷⁵ According to UNCTAD, the adoption of the Bill has been delayed due to socio-economic, legal, and political challenges facing the country.⁷⁶

6 An examination of the domestic regulation on e-commerce in Zimbabwe

Zimbabwe is still lagging behind in its efforts to take full advantage of the technological transformations that have been made to international trade through e-commerce.⁷⁷ The country has not yet adopted a comprehensive regulatory framework on e-commerce.⁷⁸ The current regulatory framework was mainly developed to cater for paper-based transactions which require the use of documents and manual signatures.⁷⁹ As a result, the regulation of e-commerce is fragmented and inadequate to accommodate the development of e-commerce.⁸⁰

Currently, various pieces of legislation regulate the use of ICT technologies including electronic communications and certain aspects of e-commerce in Zimbabwe.⁸¹ Among other legislation, e-commerce in Zimbabwe is mainly regulated by the Data Protection Act,⁸² Consumer Protection Act,⁸³ and the Postal and Telecommunications Act.⁸⁴ These pieces of legislation were not enacted specifically to regulate issues relating to e-commerce hence they do not address other issues that are imperative for the development of e-commerce in Zimbabwe. For

75 United Nations Conference on Trade and Development “Zimbabwe eTrade Readiness Assessment” UNCTAD/DTL/ECDE/2025/2.

76 As above.

77 Chivasa “Small and Medium Enterprises’ (SMES) Adoption and Usage of E-commerce: A Probit Modelling” 2016 *International Journal of Economics, Commerce and Management* 218; Huni and Dewah “Admissibility of Digital Records as Evidence in Bulawayo High Court in Zimbabwe” 2019 *Journal of the South African Society of Archivists* 134.

78 Charangwa “Electronic Wills and Digital Signatures in Zimbabwe?” 2021 <https://www.mmmlawfirm.co.zw/electronic-wills-and-digital-signatures-in-zimbabwe/> (last accessed 2024-08-02).

79 United Nations Economic Commission for Africa and African Trade Policy Centre “Digital Trade Regulatory Integration: Zimbabwe” <https://repository.uneca.org/bitstream/handle/10855/47611/b12004583.pdf?sequence=1&isAllowed=y> (last accessed 2024-07-30).

80 As above.

81 African Development Bank “Information and Communications Technology” 2012 https://www.afdb.org/fileadmin/uploads/afdb/Documents/GenericDocuments/14.%20Zimbabwe%20Report_Chapter%2012.pdf (last accessed 2024-07-23).

82 Cyber and Data Protection Act, Chapter 12:07.

83 Consumer Protection Act, Chapter 14:14.

84 Postal and Telecommunications Act, Chapter 12:05.

instance, there are no provisions dealing with electronic signatures.⁸⁵ Electronic signatures play an important role in digital trade as they allow the easy processing of electronic transactions between business and consumers.⁸⁶ Further, presently, Zimbabwe does not have legislation that formally deals with the formation and validity of electronic contracts.⁸⁷ The recognition of electronic transactions in e-commerce is pertinent as it gives both consumers and businesses the confidence and security to conduct e-commerce transactions.⁸⁸

In an effort to provide regulations that deal with e-commerce, Zimbabwe introduced the Electronic Transactions and Electronic Commerce Bill in 2013. Among other aims, the Bill seeks to regulate e-commerce more broadly by providing regulations that “promote the legal certainty and enforceability of electronic transactions, grant legal recognition to electronic communications and writing and provide for the legal effect of electronic signatures and secure electronic signatures.”⁸⁹ To this end, the Electronic Transactions and Electronic Commerce Bill addresses various issues that are pertinent to the development of e-commerce, for instance, it addresses *inter alia* issues regarding the use of electronic signatures, legal recognition of electronic communications, formation of online contracts, consumer protection issues in electronic transactions among.⁹⁰ Although the introduction of the bill is a step in the right direction, since 2013, it has not yet been enacted as act of parliament and as such it does not have any legal force.

Further, the Bill fails to address other important issues that are imperative for the development of e-commerce.⁹¹ For instance, the bill does not address the issue of debit cards and mobile money vendors which are the common methods of payments used in e-commerce transactions in the country.⁹² There is no predictability regarding issues of domestic currency and in most cases the currency being introduced

85 Charangwa “Electronic Wills and Digital Signatures in Zimbabwe?” 2021 <https://www.mmmlawfirm.co.zw/electronic-wills-and-digital-signatures-in-zimbabwe/> (last accessed 2024-08-02).

86 As above.

87 As above.

88 United Nations Economic Commission for Africa and African Trade Policy Centre “Digital Trade Regulatory Integration: Zimbabwe” <https://repository.uneca.org/bitstream/handle/10855/47611/b12004583.pdf?sequence=1&isAllowed=y> (last accessed 2024-07-30).

89 See the preamble of the Electronic Transactions and Electronic Commerce Bill, 2013.

90 As above.

91 TechZim “Some thoughts on Zimbabwe’s Electronic Communications & E-commerce Draft Bill” 2015 <https://www.techzim.co.zw/2015/11/some-thoughts-on-zimbabwes-electronic-communications-e-commerce-draft-bill/> (last accessed 2024-08-02).

92 As above.

by the government cannot be used in cross-border e-commerce transactions.⁹³

Also, although Zimbabwe adopted the Cyber and Data Protection Act,⁹⁴ a piece of legislation which is pertinent to build trust, confidence and security of e-commerce transactions, the Act has been criticised for taking away the principles and rights it seeks to protect.⁹⁵ This is mainly because the Act does not establish an independent data protection authority but delegates that authority to the Postal and Telecommunications Regulatory Authority (POTRAZ), a government institution which is also a telecommunications sector regulator.⁹⁶ This has the potential to create an administrative authority given the duties and roles of POTRAZ as a data protection authority as well as a telecommunications sector regulator.⁹⁷

Further, the Act establishes the Cybersecurity and Monitoring of Interception of Communications Centre, a body that is not only housed in office of the President but is also responsible for issuing interception of communications warrants.⁹⁸ Accordingly, MISA argues that under the Cyber and Data Protection Act the “government is operating under a very misled presumption that cybersecurity equals national security.”⁹⁹ This is because the piece of legislation gives the government particularly the executive the power to monitor and intercept communications willy nilly on the guise of protecting national security.¹⁰⁰ Given that security, trust, predictability and confidence are paramount to the development of e-commerce, the Cyber and Data Protection Act does not promote the use and development of both domestic and cross-border e-commerce transactions through its provisions.

7 Regulatory challenges in the development of e-commerce in Zimbabwe

The development of e-commerce in Zimbabwe is inhibited by various challenges. This section discusses some of the regulatory challenges. These include, inadequate ICT infrastructure, lack of adequate

93 World Economic Forum “The ZiG: Zimbabwe rolls out world’s newest currency. Here’s what to know” 2024 <https://www.weforum.org/agenda/2024/05/zimbabwe-zig-new-currency-inflation-dollar/> (last accessed 2024-08-02).

94 Cyber and Data Protection Act, Chapter 12:07.

95 MISA “Analysis of the Data Protection Act” <https://zimbabwe.misa.org/2021/12/06/analysis-of-the-data-protection-act> (last accessed 2024-08-02).

96 See S 5 of the Data Protection Act, Chapter 12:07.

97 MISA “Analysis of the Data Protection Act” <https://zimbabwe.misa.org/2021/12/06/analysis-of-the-data-protection-act> (last accessed 2024-08-02).

98 See S 37 (2) of the Cyber and Data Protection Act, Chapter 12:07 which amended the Interception of Communications Act, Chapter 11:20.

99 MISA “Analysis of the Data Protection Act” <https://zimbabwe.misa.org/2021/12/06/analysis-of-the-data-protection-act> (last accessed 2024-08-02).

100 As above.

knowledge, lack of e-payment systems, lack of an e-commerce enabling environment and the absence of a regulatory framework on e-commerce.

7.1 Inadequate ICT infrastructure

ICT infrastructure is one of the fundamental pillars that enables the development of e-commerce.¹⁰¹ Robust internet connectivity, digital payment systems and reliable electricity supply are key infrastructural components that are necessary for the development of e-commerce. Compared to other regions, Ndonga argues that the “African continent has been left in a constant state of ‘catch up’ when it comes to adopting sophisticated technologies related to e-commerce.”¹⁰² Zimbabwe does not have adequate ICT infrastructure that supports the development of e-commerce.¹⁰³ The provision of ICT services in Zimbabwe has mainly been affected by the political and economic predicament that is hounding the country.¹⁰⁴ This predicament led to the stagnation in the growth of the ICT sector and hindered efforts to expand and modernise existing ICT infrastructure.¹⁰⁵ As a result, Zimbabwe is lagging behind other countries in its efforts to take full advantage of the use of ICTs to stimulate and promote economic development.¹⁰⁶

Further, internet penetration in Zimbabwe is very low.¹⁰⁷ Low internet penetration is mainly attributed to poor telephone communications, unreliable electricity supply and the fact that the internet is overpriced.¹⁰⁸ Exorbitant pricing on the internet is mainly attributed to the harsh and unstable economic environment in the country which forces internet service providers to charge exorbitant prices to avoid losses.¹⁰⁹ E-commerce therefore seems to be left for high

101 Ndonga “E-Commerce in Africa: Challenges and Solutions” 2012 *African Journal of Legal Studies* 252.

102 As above.

103 Batani, Denhere and Mawere 2015 *International Journal of Management & Business Studies* 46.

104 Zimbabwe Report Information and Communications Technology https://www.afdb.org/fileadmin/uploads/afdb/Documents/GenericDocuments/14.%20Zimbabwe%20Report_Chapter%2012.pdf (last accessed 2024-08-02).

105 As above.

106 As above.

107 As above.

108 All Internet Service Providers (ISPs) and mobile phone companies are licensed and regulated by the state-owned telecommunications regulatory body, POTRAZ. Further, the establishment of ISPs and mobile phones operators is challenging due to exorbitant application and operating fees. See Hungwe and Munoriyarwa “An Analysis of the Legislative Protection for Journalists and Lawyers Under Zimbabwe’s Interception of Communications Act” 2024 *Statute Law Review* 45. See Mawere and Muteru “Effects of the Prevailing Zimbabwean Economic Situation on E-Commerce” 2019 *International Journal of Engineering Research & Technology* 110.

109 Mawere and Muteru 2019 *International Journal of Engineering Research & Technology* 110.

income earners as the majority of people cannot afford to connect to the internet.¹¹⁰ Many rural areas do not have suitable infrastructure that supports internet services.¹¹¹ There is a digital divide between urban and rural areas.¹¹² Even in unusual instances where a person residing in the rural areas places an e-commerce order online, the country has inadequate roads and rail links between cities and remote towns or growth points which make the delivery of goods extremely difficult.¹¹³ As a result, 90 percent of e-commerce transactions are made from major cities such as Harare and Bulawayo.¹¹⁴

Further, despite the significance of digital payment systems in enabling the adoption and expansion of e-commerce, a significant portion of the population in Zimbabwe remains hesitant to use digital payment systems in e-commerce transactions. According to UNCTAD, in 2021, the share of population using the internet to make online purchases was just 2.5 per cent.¹¹⁵ Lack of trust, high transaction costs and connectivity issues have been cited as challenges that are inhibiting the integration of digital payment systems with e-commerce. Simatele accordingly submits that many consumers in Zimbabwe “complain about the high charges they face, as well as the system and infrastructural failures associated with e-payments in the country.”¹¹⁶ As a result, many consumers prefer cash on delivery transactions to avoid digital payment transactions.¹¹⁷ It can therefore be submitted that the ICT infrastructure in Zimbabwe has a long way to go before it can match up to other developing countries.¹¹⁸

7 2 Lack of adequate knowledge

Another factor that is inhibiting the effective development of e-commerce in Zimbabwe is lack of ICT knowledge amongst the

110 As Above.

111 Kumba and Olanrewaju “Bridging the Digital Divide: Improving Information, Communication, and Technology (ICT) in Zimbabwe to Spur Economic Development.” 2023 <https://ieomsociety.org/proceedings/2023vietnam/346.pdf> (last accessed 2024-08-28).

112 As above.

113 Tempest “The Digital Economy and Ecommerce in Africa - Drivers of the African Free Trade Area?” 2020 https://saiia.org.za/wp-content/uploads/2020/05/The-digital-economy-and-ecommerce-in-Africa_Special-Report.pdf (last accessed 2024-08-10).

114 UNCTAD “Measuring E-Commerce and the Digital Economy” https://unctad.org/system/files/non-official-document/tdb_edc_wg2019c05_Zimbabwe_en.pdf 2019 (last accessed 2024-08-02); International Trade Administration “Zimbabwe-Country Commercial Guide” <https://www.trade.gov/country-commercial-guides/zimbabwe-ecommerce> (last accessed 2024-08-02).

115 United Nations Conference on Trade and Development “Zimbabwe eTrade Readiness Assessment” UNCTAD/DTL/ECDE/2025/2.

116 Munacinga Simatele “E-payment instruments and welfare: The case of Zimbabwe” 2021 *Journal for Trans-disciplinary research in Southern Africa* 10.

117 As above.

118 As above.

population and the relevant stakeholders.¹¹⁹ Many people do not have the adequate knowledge to use technologies such as computers and the internet.¹²⁰ In this regard, Dennins Ndogo also posits that “cultural attitudes have also played a role in thwarting ICT literacy in Africa.”¹²¹ There seems to be lack of trust of ICT technologies particularly in the area of trade in Zimbabwe.¹²² Concerns regarding the “quality of the goods, delivery, return of damaged goods and the general suspicions of buying goods without the ability to touch and feel” reduces the confidence of both businesses and consumers to engage in e-commerce transactions.¹²³ As a result, many consumers and businesses particularly SMEs feel safe using face to face trade without adequate knowledge of the advantages of e-commerce.¹²⁴ In overall, lack of ICT literacy from consumers and businesses contributes to the low levels of e-commerce adoption.¹²⁵

Further, lack of e-commerce policies that promotes the use of e-commerce highlights the lack of expertise and understanding of the importance of rules pertaining to e-commerce from government officials.¹²⁶ In particular, lack of enactment of the 2013 bill highlights lack of understanding of the urgent need to develop rules that harness the benefits of e-commerce. Consequently, there is a glaring disconnect between policy making institutions and the realities of the digital economy. According to the UNCTAD, the absence of comprehensive e-commerce legislation and a dedicated national e-commerce strategy is hindering the development of e-commerce in Zimbabwe. Without domestic legislation and a cohesive national strategy that aim to harness the benefits of e-commerce, Zimbabwe risks falling behind in the rapidly evolving digital economy.

7.3 Lack of an e-commerce enabling environment

Among other factors, corruption, lack of rule of law and ill-conceived economic policies are hindering the development of e-commerce in

119 Makiwa and Steyn “ICT Adoption and Use in Zimbabwean SMEs” 2016 *International Information Management Corporation* 5.

120 As above.

121 Ndonga 2012 *African Journal of Legal Studies* 254.

122 Okoli, Mbarika and McCoy “The Effects of Infrastructure and Policy on E-business in Latin America and Sub-Saharan Africa” 2010 *European Journal of Information Systems* 15.

123 Tempest “The Digital Economy and Ecommerce in Africa - Drivers of the African Free Trade Area?” 2020 https://saiaa.org.za/wp-content/uploads/2020/05/The-digital-economy-and-ecommerce-in-Africa_Special-Report.pdf (last accessed 2024-08-10).

124 Nnaemeka, “Is Africa Ready for Electronic Commerce? A Critical Appraisal of the Legal Framework for Ecommerce in Africa” 2011 *European Journal of Law Reform* 555.

125 Ndonga 2012 *African Journal of Legal Studies* 253-254.

126 Tempest “The Digital Economy and Ecommerce in Africa - Drivers of the African Free Trade Area?” 2020 https://saiaa.org.za/wp-content/uploads/2020/05/The-digital-economy-and-ecommerce-in-Africa_Special-Report.pdf (last accessed 2024-08-10).

Zimbabwe.¹²⁷ The overall economic regulatory environment of Zimbabwe is complex and does not support the development and growth of businesses.¹²⁸ For instance, the government of Zimbabwe has a tendency of introducing ad-hoc trade restrictions and policies that are meant to protect inefficient and sometimes non-existent domestic producers.¹²⁹ These policies and trade restrictions are sometimes drafted based on political and personal reasons which increases the cost and reduces the confidence of doing business in Zimbabwe.¹³⁰

Mawere and Mutero also submits that corruption and lack of rule of law contributes to an environment that reduces confidence in e-commerce activities.¹³¹ In terms of corruption, the Transparency International Zimbabwe (TIZ) ranks Zimbabwe 149 out of 180 countries.¹³² Corruption increases the cost of doing business and in most instances consumers bear the cost as it increases prices of goods or services.¹³³ Instead of building infrastructure and developing a conducive environment that encourages investment in e-commerce, the proceeds of corruption are often committed to non-productive activities which enriches only a few.¹³⁴ The government of Zimbabwe lacks the political will to eradicate corruption and in some instance it has been accused of “catch and release” syndrome of high political government officials.¹³⁵

Further, lack of rule of law in Zimbabwe discourages investment and the overall confidence in commercial transactions.¹³⁶ In this regard, Hungwe and Munoriyarwa posit that Zimbabweans’ economy is “characterised by instability and policy volatility, which are hallmarks of excessive government interference and mismanagement.”¹³⁷ For instance, on one occasion the government restricted the use of social media platforms such as Facebook, Twitter and Whatsapp on the basis of protecting national security.¹³⁸ This restriction was done under the Interception of Communication Act, a piece of legislation which is highly

127 As above.

128 International Trade Administration “Zimbabwe - Country Commercial Guide” <https://www.trade.gov/country-commercial-guides/zimbabwe-market-challenges> (last accessed 2024-09-10).

129 As above.

130 As above.

131 Mawere and Mutero 2019 *International Journal of Engineering Research & Technology* 111.

132 Transparency International Zimbabwe “Our Work in Zimbabwe” <https://www.transparency.org/en/countries/zimbabwe> (last accessed 2024-07-02).

133 Myint “Corruption: Causes, Consequences and Cures” (2000) *Asia-Pacific Development Journal* 47-48.

134 Ndoma “Corruption in Zimbabwe” https://saiia.org.za/wp-content/uploads/2021/07/04_Corruption_SNdoma.pdf (last accessed 2024-07-04).

135 As above.

136 Hungwe and Munoriyarwa 2024 *Statute Law Review* 2.

137 As above.

138 UNECA “Digital Trade Regulatory Integration: Zimbabwe” <https://repository.uneca.org/bitstream/handle/10855/47611/b12004583.pdf?sequence=1&isAllowed=y>.

contested and criticised for providing “carte Blanche for authorities to surreptitiously walk in the dark unaided with a legal guiding torch whose net result is the inadvertent intrusion and violation of rights of the respective parties.”¹³⁹ Further, subsequently, without adherence to the rule of law, businesses and consumers will not have the necessary confidence and trust in e-commerce transactions.

8 Towards the development of e-commerce in the digital economy

Given the challenges facing the development of e-commerce in Zimbabwe explored above, there is a need for the country to adopt laws, policies, principles and norms that supports the development of e-commerce. An e-commerce thriving market in the digital economy is pertinent for economic development which in turn can create employment, eradicate poverty and promote sustainable development. The challenges facing the development of e-commerce in Zimbabwe can be mitigated through legal reform aimed at boosting confidence in e-commerce transaction, promoting ICT awareness and investing in infrastructural development. These are discussed below.

8.1 Adoption of a legal framework on e-commerce

As discussed above, a legally predictable environment that breeds confidence, trust and security is pertinent for the development of e-commerce in Zimbabwe.¹⁴⁰ It is therefore pertinent that Zimbabwe adopts a comprehensive regulatory framework on e-commerce. Given that e-commerce transcends beyond borders, it is important that the regulatory framework on e-commerce be anchored in international instruments. Without an effective regulatory regime that harnesses the benefits of e-commerce and promotes cross-border e-commerce, Zimbabwe runs the risk of widening the digital divide with other countries.¹⁴¹ A legally enforceable regulatory framework on e-commerce in Zimbabwe is imperative to discourage and eradicate vulnerable and exploitative practices that discourages the use and development of e-commerce.¹⁴² Consequently, a robust legal framework on e-commerce

139 Hungwe and Munoriyarwa 2024 *Statute Law Review* 2.

140 Tempest “The Digital Economy and Ecommerce in Africa - Drivers of the African Free Trade Area?” 2020 https://saiaa.org.za/wp-content/uploads/2020/05/The-digital-economy-and-ecommerce-in-Africa_Special-Report.pdf (last accessed 2024-08-10).

141 United Nations “Widening Digital Gap between Developed, Developing States Threatening to Exclude World’s Poorest from Next Industrial Revolution, Speakers Tell Second Committee” 2023 <https://press.un.org/en/2023/gaef3587.doc.htm> (last accessed 2024-08-22).

142 Tempest “The Digital Economy and Ecommerce in Africa - Drivers of the African Free Trade Area?” 2020 https://saiaa.org.za/wp-content/uploads/2020/05/The-digital-economy-and-ecommerce-in-Africa_Special-Report.pdf (last accessed 2024-08-10).

can be instrumental in boosting trade and stimulate economic development, which in turn can address poverty, unemployment and other social and economic challenges hounding Zimbabwe.¹⁴³

8 2 Promotion of ICT awareness

The importance of a regulatory framework on e-commerce should not be understated, however, a regulatory framework without the promotion of ICT awareness to bridge the usability barrier is futile.¹⁴⁴ Consequently, the promotion of ICT awareness remains important for the development of e-commerce in Zimbabwe.¹⁴⁵ Consumers, businesses, government authorities and policymakers should therefore be educated on the importance and the benefits of e-commerce.¹⁴⁶ Deliberate efforts should therefore be made to educate and promote ICT awareness particularly in commercial transactions.¹⁴⁷

Laws and policies that promote and introduce ICT literacy at an early stage in schools should be adopted.¹⁴⁸ Teachers should therefore undergo training and awareness programs that can help them to teach children ICT literacy at early stage.¹⁴⁹ This is important as it can “create a generation of savvy computer users who form the foundation of a vibrant ICT market.”¹⁵⁰ Further, responsible ministries should conduct workshops that educate and provide training for small businesses and young entrepreneurs on the benefits and importance of ICTs in the digital economy.¹⁵¹

8 3 Infrastructure development

As discussed above, infrastructure investment is important for the development of e-commerce. Modern ICT infrastructure is important for economic development and increases competitiveness in the digital economy.¹⁵² Currently, Zimbabwe lacks policies that are aimed at infrastructure investment.¹⁵³ Investment in infrastructure has a significant impact on bridging the digital divide in Zimbabwe.¹⁵⁴ One of

143 Alinsato and Agadjihouede “E-commerce in Africa: Issues and Challenges” https://www.wto.org/english/res_e/booksp_e/09_adtera_chapter_05_e.pdf (last accessed 2024-08-22).

144 Ndonga 2012 *African Journal of Legal Studies* 263.

145 Dzinoreva and Mavunga “Integrating ICTs into the Zimbabwean secondary school pre-service teachers’ curriculum” 2022 *Journal of Education* 63.

146 OECD “Promoting Consumer Education Trends, Policies and Good Practices” (2009) https://read.oecd-ilibrary.org/education/promoting-consumer-education_9789264060098-en#page1 (last accessed 2024-08-22).

147 Dzinoreva and Mavunga 2022 *Journal of Education* 63.

148 As above.

149 As above.

150 OECD “Regulatory Reform as a Tool for Bridging the Digital Divide” <https://www.oecd-ilibrary.org/docserver/232862231573.pdf?expires=1726197915&id=id&accname=guest&checksum=0F4F5C57BB8A447EA2133BAEB63BC13D> (last accessed 2024-09-01).

151 Ndonga 2012 *African Journal of Legal Studies* 264.

the major contributing factors to poor ICT infrastructure in Zimbabwe is the impenetrable telecommunications regulations that limit effective competition in the provision of telecommunications services.¹⁵⁵ Zimbabwe lacks the financial capability to build efficient and effective modern ICT infrastructure.¹⁵⁶ Accordingly, government should develop policies that attract investment and grant licenses to operators and providers of digital media, internet, broadband and fixed or mobile phone services.¹⁵⁷ This can increase competition, lower prices and increase the internet and digital penetration country-wide.¹⁵⁸

As discussed, e-payments facilitates the development of e-commerce as it makes it easier for both businesses and consumers to make payments for a goods or services that would have been purchased online.¹⁵⁹ In order to promote the development of e-commerce in Zimbabwe, it is important for the government to adopt laws and policies that build trust, security and confidence in e-payment systems.¹⁶⁰ In this regard, policies that enable international suppliers of e-payment services to compete on a level playing field with local suppliers can promote competition thereby developing suitable and effective options for both consumers and businesses.¹⁶¹ These policies should also promote innovation and allow increased access by new participants.¹⁶² Priority should also be given to the adoption of economic and political policies

152 Kumba and Olanrewaju "Bridging the Digital Divide: Improving Information, Communication, and Technology (ICT) in Zimbabwe to Spur Economic Development." 2023 <https://ieomsociety.org/proceedings/2023vietnam/346.pdf> (last accessed 2024-08-28).

153 Infrastructure and Growth in Zimbabwe an Action Plan for Sustained Strong Economic Growth https://www.afdb.org/fileadmin/uploads/afdb/Documents/GenericDocuments/Zimbabwe%20Report_Book22.pdf (last accessed 2024-08-22).

154 As above.

155 Ndonga 2012 *African Journal of Legal Studies* 256.

156 Kumba and Olanrewaju "Bridging the Digital Divide: Improving Information, Communication, and Technology (ICT) in Zimbabwe to Spur Economic Development." 2023 <https://ieomsociety.org/proceedings/2023vietnam/346.pdf> (last accessed 2024-08-28).

157 Ndonga 2012 *African Journal of Legal Studies* 258; Guislain *et al* "Connecting Sub-Saharan Africa: A World Bank Group Strategy for Information and Communication Technology Sector Development" 2005 <http://event-africa-networking.web.cern.ch/eventafrica-networking/cdrom/Worldbank/ConnectingSub-SaharanAfrica.pdf> (last accessed 2024-07-02).

158 As above.

159 World Economic Forum "Addressing E-Payment Challenges in Global E-Commerce" 2018 https://www3.weforum.org/docs/WEF_Addressing_E-Payment_Challenges_in_Global_E-Commerce_clean.pdf (last accessed 2024-09-02).

160 Simatele "E-payment instruments and welfare: The case of Zimbabwe" 2021 *Journal for Trans-disciplinary research in Southern Africa* 10.

161 World Economic Forum "Addressing E-Payment Challenges in Global E-Commerce" 2018 https://www3.weforum.org/docs/WEF_Addressing_E-Payment_Challenges_in_Global_E-Commerce_clean.pdf (last accessed 2024-09-02).

162 As above.

that stabilizes the economy and Zimbabwean currency.¹⁶³ In this regard, Kararach, Kadenge and Guvheya submits that the currency crisis in Zimbabwe can be resolved through policy consistency, institutional reforms, adoption of prudent monetary policies and the government's commitment and political will to implement these policies.¹⁶⁴

9 Conclusion

Although e-commerce presents an opportunity that can promote economic development and resuscitate the economy of Zimbabwe, the article has established that the country has not yet adopted a comprehensive legal framework on e-commerce and lacks provisions that address cross-border e-commerce as it has not yet adopted or ratified the UNCITRAL international instruments on e-commerce. Accordingly, e-commerce is still in embryonic stages due to the current legal and regulatory environment which does not support and facilitate its development. Among other challenges, the article has noted that Zimbabwe faces challenges that include low levels of internet penetration, lack of ICT awareness, lack of ICT infrastructure, lack of rule of law and ill-conceived economic policies to effectively take advantage of e-commerce. To bridge the digital divide and foster economic development, stimulate employment and eradicate the socio-economic challenges through the development of e-commerce, the article has highlighted the importance to adopt a regulatory framework that promotes ICT awareness, invest in ICT infrastructure, eradicate corruption and uphold the rule of law in Zimbabwe.

163 Kararach, Kadenge and Guvheya "Currency Reforms in Zimbabwe: An Analysis of Possible Currency Regimes" 2010 <https://elibrary.acbfpact.org/acbf/collect/acbf/index/assoc/HASH1046/c6d71deb/5ded8961/16.dir/file%20011.pdf> (last accessed 2024-09-02).

164 As above.