CONSTRUCTING GOVERNANCE IN GLOBAL ELECTRONIC COMMERCE

DISSertation

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This dissertation explores how particular types of global rules and norms have emerged with respect to the governance of electronic commerce. In order to achieve this research objective, this study does not give attention to how actors pursue their interests through decision-making processes. Instead, what this study focuses on is the ideas of those actors concerning policy problems, and their discursive practices to control collectively shared meanings on these problems in the rule-making process. Put differently, the development of international rules and norms for electronic commerce is regarded as a process in which actors develop their ideas and views on policy problems and act in accordance with these views. In order to analyze emerging ideas and views on the governance of electronic commerce, the present study employs frame analysis, which directs attention to frames, their emergence, conflicts and change.

Using a content analysis of policy documents, this study provides an empirical analysis of the emerging frames on the governance of global electronic commerce. For the empirical data, this study utilizes policy documents that were released between 1997 and 2001 from six international organizations which have been widely regarded as the leading organizations in setting the policy agenda for electronic commerce. The empirical analysis proceeds in two stages, each of which uses different methods. For the first stage,
the interpretive method is used in order to identify working frames and their main features that include problem definition, objectives, principles, types of intervention and policy instruments, primary actors and their roles, and key metaphors and other rhetorical devices. The second stage uses content analysis of the collected policy documents. This stage utilizes pre-identified working frames and their main features to construct categories and then classifies the data into these categories in order to verify the extent to which a particular category appears in the policy documents.

From the content analysis of policy documents, the current study has found that there have emerged three different frames on electronic commerce governance in the international rule-making process. Presenting different constructions of how electronic commerce should be governed, the emerging three frames have competed against each other to win popular acceptance of their own framing of electronic commerce governance in the rule-making process. As a result, due to the challenges to the economic dimension frame that the development and social dimension frames have posed, interest in and attention to the social and development aspects of electronic commerce have gradually increased in international discussions over time, resulting in a convergence among the competing frames in terms of the way they frame how electronic commerce should be governed.
Dedicated to my parents,
Taesueb Moon and Myeong-Hee Joo
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I want to thank God, without whom this would not be possible. I owe every good thing in my life to Him.

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CHAPTER 1

INTRODUCTION

Introduction

New information and communication technologies (ICTs) are drastically transforming our everyday lives. At the heart of this structural change is the Internet, redefining the way we experience our social, economic and political world. The Internet, originally developed as a non-regulated, localized experiment of the U.S. Department of Defense, and then as networks among academic communities, has developed into a major communications and commercial medium over a ubiquitous global network. It is viewed as the primary driver for the changes that we are undergoing in the information economy. While the potential of the Internet has been recognized in various ways, it is the capability of conducting economic transactions via its seamless network that draws the most attention. This potential has been recognized for its significant economic implications for business, and for welfare benefits to consumers by providing more convenience and choice. At the same time, as a transformation of modern communication systems is signaled by the emergence of electronic commerce as a platform for commercial transactions and the delivery of goods and services, policy-makers and legislators in the new policy environment also face daunting challenges.
In popular usage, electronic commerce refers to any type of commerce conducted by business via advanced information and communication networks, and it has existed for a long time in the form of Electronic Data Interchange (EDI). Moreover, the Internet is not the sole vehicle for electronic commerce. While there are other media for electronic commerce such as broadcasting, videotext, and CD-Rom catalogue sales, it is the Internet that has lifted electronic commerce to the recent frenzy among businesses, policy-makers, academics and even consumers. Though figures vary across countries and within populations, growth and diffusion in electronic commerce have been explosive in the past several years. According to the projections, on a global scale, the volume of electronic commerce will reach $2.7 trillion by 2004, up from $98.4 billion in 1998 (eMarketer, 2001). A more optimistic forecast far exceeds this number by predicting that just the worldwide business-to-business electronic commerce market alone will reach 7.3 trillion by 2004, which represents nearly 118.9 % annual growth (Gartner Group, Feb. 2000).

While the U.S. is unparalleled in any category of electronic commerce statistics, a notable increase in electronic commerce revenues by other countries is anticipated as well. For example, business-to-consumer electronic commerce revenues are projected to grow from $12.54 billion in 2000 to $167.92 billion in 2004 in Europe, and from $3.2 billion in 2000 to $38 billion in 2004 in the Asia-Pacific region (eMarketer, 2000; International Data Corp., 2001).

As electronic commerce provides a qualitatively new way of conducting economic activities and has broad social and economic ramifications for various stakeholders in society, national policy-makers have been confronted by the issue of how this new form of economic interaction should be governed. As a result, there has been
increasing demand for a framework to deal with this new form of economic activity at the national level. A difficult reality for national policy-makers in handling this problem is, however, that this issue has a global dimension, because its technology presents challenges to the principle of territoriality and national sovereignty that traditional telecommunication and trade regimes have been based upon. Put differently, while the emergence of the new form of economic interactions over advanced communication networks is urgently demanding a commonly agreed governing framework, the unique nature of electronic commerce makes the establishment of the framework complicated and also makes country-specific solutions problematic.

In any social system, national or international, interaction between social actors requires commonly shared rules and norms to delineate their roles and appropriate behavior for actors with a given identity (Katzenstein, 1996; Finnemore & Sikkink, 1999; Kratochwil, 1989). Governance can be defined as “a system of rules that is dependent on intersubjective meanings and therefore works only if it is accepted by the majority” and it is thus a fundamental element of a social system, as well as any form of interaction between social actors (Rosenau, 1992, p. 4). The process of globalization, which increasingly links distant localities and reconfigures the spatial dimensions of societies, leads to an intensification of communication and exchange and to closer economic, political, and social interactions among people at a great distance from each other (Giddens, 1990; Mittelman, 2000; Scholte, 2000a). As these interactions take place many times across territorial jurisdictions, there arises a need for new rules and norms to govern relationships that are not necessarily covered by domestic laws (Sandholtz, 1999).
In this sense, globalization promotes the creation and evolution of transnational rules and norms, and ultimately the establishment of governance.

Electronic commerce via advanced communication networks is a good illustration of the urgent need for international rules and norms since its ‘born-global’ nature considerably increases communication and economic transactions between people from different legal and cultural settings. For example, the need to protect personal information and privacy in electronic commerce demonstrates that common rules and norms are essential for the diffusion and growth of electronic commerce. Since electronic commerce many times requires customers to submit personal information in the process of transaction, the provision of proper protection for this information is critical for customers to be confident that online transaction is as safe and trustworthy as traditional offline transaction. This means that protection of personal information significantly affects the growth of electronic commerce, which is in the interest of business as well as government.

The problem is, however, that legal protection of personal information collected through commercial transactions varies across countries, from no protection at all to self-regulation to stringent legal protection. When a commercial transaction involves two parties that reside in two countries with totally different forms of legal protection of personal information, it is very likely that a dispute will arise between the parties because of the difference in legal provisions. As a result, the customer may feel that his privacy is endangered because the customer’s expectations about the protection of personal information are not met. This problem can be minimized only if there is a common rule that both parties agree to follow as regards how personal information is collected and
stored and to what extent this information is protected from consensual and non-consensual use by the information gatherer.

Without some form of governance, public or private, therefore, economic transactions on a global network could be severely restricted or even impossible. As a result, in the past five years we have witnessed international efforts of various actors, including state, regional and intergovernmental organizations, international business organizations, and non-governmental organizations, to establish a particular form of governance in electronic commerce. This raises very interesting questions for the present study. Through what process has a particular form of governance been emerging? Put differently, what makes the creation of transnational rules and norms possible even though each actor brings different ideas and goals to the rule-making process and has a different stake in electronic commerce-related issues? In order to explore this research issue, the current research refers to a body of literature in international relations and public policy that underscores the role of ideas and discourse in the international rule-making process.

According to scholars in this line of research, deliberation, argumentation, and the collective production of meaning are essential parts of international politics and the rule-making process. They view the process through which rules and norms are established as a system of competing producers and sponsors of ideas and discourses, as well as a struggle to control shared meanings and to gain acceptance of each actor’s own framing of international policy problems. International actors are engaged in discursive practices such as deliberation and argumentation to convince other actors of the plausibility and legitimacy of their ideas (Braun, 1999, p. 24). This process socially constructs the policy
situation, defines the problems of the situation, and provides a plan of action for addressing the problems (Rein & Schon, 1994). Since every actor brings his/her own ideas to the international rule-making process and tries to win popular support, competition and conflict between different ideas inevitably erupt. In this sense, as Majone (1989) points out, politics is a matter of advocates (p. 175). Put differently, rule-making is inherently a communicative process. This communicative approach to international rule-making provides a useful research framework for the current study in that it can direct attention to discursive practices by various social actors, such as deliberation, argumentation and framing.

The purpose of the current research is to examine how governance is socially constructed in global electronic commerce by various social actors, and by their discursive practices. My particular interest in this dissertation is to examine the process through which policy problems are defined in global electronic commerce, and how they are framed and negotiated by social actors who compete for intersubjective meaning of those problems. The present study investigates this communicative process in terms of frames, how they emerge, what conflicts they create, and how they transform over time. The term “frame,” as used here, refers to “a perspective from which an amorphous, ill-defined problematic situation can be made sense of and acted upon” (Rein & Schon, 1991, p. 263).

Policy problems are constructed “out of the vague and indeterminate reality and things are selected for attention and named in such a way as to fit the frame constructed for the situation” (Schon, 1979, p. 264). The name assigned to a problematic terrain leads us to pay attention to certain elements while neglecting others (Rein & Schon, 1991, p. 263).
This naming and framing process allows “the normative leap from data to recommendation, from facts to values, from ‘is’ to ‘ought’” (Schon, 1979, p. 265). Given the possibility of multiple realities defined by different social actors and multiple definitions of the same problem, there are unavoidably competition and conflicts between different social actors in defining policy problems and framing the issues, which leads to “frame conflict,” situations where the ends the participants seek may be “incommensurable because they are embedded in conflicting frames that lead us to construct incompatible meanings for the situation” (Schon, 1979, p. 269). In sum, the current research can contribute to demonstrating that the international rule-making process is in itself a communicative process and power-laden by investigating the way that different social actors define policy problems and frame them in such a way as to fit their construction of the world, and by revealing the way that different frames are contested and negotiated.

**Research Questions**

In light of the discussion above, this dissertation intends to respond to the following two research questions:

1. What frames have emerged in the international rule-making process for global electronic commerce?

In answering this question, the research has the following objectives:

- Identify the main features of the frames, including problem definition, objectives, principles, types of intervention and policy instruments,
primary actors and their roles, and key metaphors and other rhetorical devices.

- Identify the nature of attention given to policy issues in the frames.
- Identify institutional/organizational supports for the frames.

2. How have the frames changed over time?

In answering this question, the research has the following objective:

- Identify any convergence or divergence among the frames over time, regarding problem definition, objectives, principles, types of intervention and policy instruments, primary actors and their roles, and key metaphors and other rhetorical devices.

**Research Method**

In recognition of the utility of using multiple methods in the same study, this dissertation will employ both quantitative content analysis and an interpretive approach to analyze policy documents. In this study, “policy document” is defined broadly and thus includes various types of materials such as policy decisions, recommendations, conference presentations and proceedings, policy papers and reports, and policy statements. For the empirical data, this dissertation utilizes policy documents that were released between 1997 and 2001 from six international organizations. Since electronic commerce concerns a variety of commercial, legal and technical activities, various kinds of domestic and international actors have stakes in electronic commerce governance. This inevitably leads the present study to exclude many important social actors in the analysis. While the researcher is well aware that this selection can be arbitrary and biased,
nonetheless, the current study selects three intergovernmental organizations, the Organization for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), and International Telecommunication Union (ITU); two international business organizations, the Alliance for Global Business (AGB) and Global Business Dialogue on electronic commerce (GBDe); and one international non-governmental organization, the Global Internet Liberty Campaign (GILC).

The rationale for selecting the OECD, UNCTAD and ITU is that these three intergovernmental organizations have played the leading roles in setting policy agenda and providing a forum for international discussion and negotiation. Compared to other intergovernmental organizations that primarily focus on a specific issue, such as the World intellectual Property Organization (intellectual property rights), United Nations Conference on International Trade Law (commercial law), Internet Corporation for Assigned Names and Numbers (Domain name system) and World Trade Organization (international trade) or are more interested in technical issues, such as International Standard Organization (standards), these three organizations have addressed a wide range of electronic commerce related-issues. In addition to their broad interests in electronic commerce-related issues, these organizations also represent different stakes of various actors, including developed and developing countries and even the private sector. On the other hand, the selection of the GBDe, AGB and GILC was made based on a recognition of the increasing significance of non-state actors in the governance of global economic matters and the notable involvement of such actors in the rule-making process for electronic commerce governance.
The empirical analysis proceeds in two stages, each of which uses different methods. For the first stage, the interpretive method is used in order to identify working frames and their main features that include problem definition, objectives, principles, types of intervention and policy instruments, primary actors and their roles, and key metaphors and other rhetorical devices. Thus, this dissertation takes an inductive approach that involves analyzing various policy discourses with an open view in an attempt to reveal the array of possible frames and their constitutive elements. The second stage uses content analysis of the collected policy documents. This stage is deductive in nature because it utilizes pre-identified working frames and their main features to construct categories and then classifies the data into these categories in order to verify the extent to which a particular category appears in the policy documents. This content analysis will actually provide the answers to the research questions that this dissertation poses.

**Rationale**

As global electronic commerce has led to profound changes in the way economic transactions are made and has spurred the rapid integration of global markets, governance of electronic commerce has emerged as an important policy agenda around the globe, leading various stakeholders to get involved actively in the international rule-making process for electronic commerce. Given the broader social and economic implications of electronic commerce, it is of no surprise that this rule-making process and the emerging forms of governance have increasingly captured the attention of scholars across various disciplines, including law, political science, business, economics, communications, policy
and even computer science. Despite the substantial contributions to understanding this process, a review of the literature reveals some research gaps in the study of emerging forms of governance in global electronic commerce. This dissertation intends to fill these gaps in the existing literature, which provides a rationale for the present study and demonstrates its novelty.

First, the existing literature has mainly focused on the actors and their behaviors in the negotiation and decision-making process to investigate emerging forms of governance in global electronic commerce. In other words, what the literature is the most interested in is what the actors do in the rule-making process and how they do this. This approach can contribute to demonstrating through what process a particular form of governance is established in electronic commerce. Nonetheless, this approach provides only a partial explanation of this process because it oftentimes does not and cannot explain why the actors do what they do. A common response to this critique has been that these actors are rational enough to know what their best interests are and these interests and preferences guide actors’ behaviors to maximize their interests in the rule-making process. In this line of thought, actors’ interests and preferences are exogenously given and are not formed by interactions among actors in the rule-making process itself. Instead, they are always determined by external factors such as material power and national security concerns. This is, however, problematic because this assumption is difficult to maintain when actors’ behaviors conflict with the presumed interests and change in a way against their presumed interests in the rule-making process.

In order to provide a better explanation of the emerging forms of electronic commerce governance, therefore, this dissertation takes a different approach to the issue,
one in which attention is given to the roles of ideas and discourse. According to this approach, ideas are essential building blocks of social reality. Ideas neither simply reflect nor are determined by interests. Instead, since intersubjective ideas define how actors interpret their material environment, ideas define the social identities of actors, and then constitute actors’ interests and shape their behaviors (Price & Reus-Smit, 1998, p. 266). Put differently, the particular ideas held and advocated by certain actors can influence the way other actors perceive social reality and then alter the interests of those actors. By the same token, the use of language in the interaction of social actors constitutes the basis of a collective process of interpretation and understanding of social realities. Discourse and discursive practices among social actors lead them to reinterpret their actions and contexts in which those actions are made, which then affects a course of strategies for them to achieve their interests. In this sense, even material interests are unstable and dependent on discursive practices (Braun, 1999, p. 22).

Following this line of argument, the actors’ interests which are believed to guide their behaviors are determined by particular ideas, and these interests and ideas are changed through discursive practices in the rule-making process. In order to explicate how a particular form of governance is established, then, the attention should be given to ideas held and discourse engaged in by these actors, and not to the actors’ behaviors. Taking this approach, the present dissertation would be able to explain why particular actors behave a certain way and why their behaviors change in the rule-making process for global electronic commerce.

Second, the literature on the international rule-making process has tended to underestimate the significant role of non-state actors by paying the primary, if not
exclusive, attention to state actors such as national governments and intergovernmental organizations. Given that international politics has been overwhelmingly dominated by nation-states and intergovernmental organizations in the Bretton Woods system, the state-centric bias in the study of international rule-making process is understandable. Nonetheless, as Young (1999) properly points out, this state-centrism “fails to confront many interesting developments currently under way in international and transnational affairs” (p. 9). A similar tendency of state-centrism is widely noticed in the existing works on electronic commerce governance (e.g. Cheek, 2001; Malawer, 2001).

Witnessing the structural transformation in global political economy, however, recent research in international relations and political sciences has increasingly turned its attention to the role of non-state actors in establishing global rules and norms and international governance. There has also been produced an increasing amount of research that attempts to examine the active engagement of the non-state actors in governance of electronic commerce and other important telecommunications-related issues. Despite their substantial contributions to our understanding of the dynamic nature of the international rule-making process, these works are limited because the focus of their analysis is primarily given to a particular area, such as Internet standards or domain names where the roles of non-state actors have been widely noticed (e.g. Simon, 1998; Gould, 2000) or exclusively to the role of one particular actor, for example, the GBD (Cowles, 2001) or the Intellectual Property Committee (IPC) in intellectual property rights (Sell, 1999, 2000). There are rare attempts to examine the international rule-making process in electronic commerce as a whole and consider the competing efforts of
various actors, including state actors and non-state actors in establishing global rules and norms for electronic commerce. This is a gap that this dissertation intends to fill.

To put it in more detail, by taking a broader view on international politics that embraces not only state actors but also various non-state actors as key players in creating governance for global electronic commerce, this dissertation provides a more comprehensive and dynamic account of the international rule-making process. Since rules, once established, empower certain social actors over others, the global rule-making process is inevitably power-laden and contested, reflecting the different stakes and asymmetric negotiating power of various social actors. Asymmetry in infrastructure, skills, and knowledge has led national governments to bring different needs and objectives to the international rule-making process, which makes immediate consent to a particular form of governance unlikely. By the same token, this rule-making process has been even more complicated because of the increased transfer of the state’s authority to inter- (or supra-) national organizations and a variety of non-state actors; this transfer has allowed these organizations and actors to share responsibility with the states in shaping international economic policy.

In particular, the role of the private sector has been prominent in this process, employing various strategies to advocate the business perspective to other stakeholders. As illustrated in the case of the Seattle protest against the WTO, non-governmental organizations have also tried to intervene in the international policy-making process in various ways by addressing public interest concerns. This is also noticeable in electronic commerce governance as demonstrated in the activities of international business organizations (e.g., Global Business Dialogue on electronic commerce, and the Alliance
for Global Business) and international non-governmental organizations (e.g., the Global Internet Liberty Campaign). By shedding light on the process through which various social actors compete to legitimize and win popular support for their definitions of problems, the present study will contribute to a better understanding of how a particular form of governance has emerged in global electronic commerce.

We have witnessed in the past several years that various stakeholders and their interaction in the domestic and international fora have produced a considerable amount of policy documents. These documents are an important resource to recognize the positions and arguments of certain stakeholders, and they present an invaluable opportunity for researchers to study policy discourse. Policy documents are, therefore, arguably to be regarded as the best data source to study policy discourse, and are widely used as a primary data source for research, irrespective of how they are going to be analyzed. The existing literature on the international rule-making process has tended to prefer either an interpretive or descriptive method to analyze policy discourse. Despite substantial benefits, however, this tendency has been widely criticized for its methodological vulnerabilities which include absence of empirical evidences, descriptive bias, and lack of reliability and validity (Johnston, 1995). This problem also applies to the literature on electronic commerce governance, most of which employs descriptive or interpretive methods to analyze policy discourse. By the same token, since most of these studies are primarily interested in what social actors do rather than what they advocate in the rule-making process, policy documents do not draw as much attention from researchers as they deserve.
In particular, quantitative content analysis has rarely been adopted as a method to analyze policy documents due to its time-consuming and labor-intensive nature. Nonetheless, several studies have demonstrated that quantitative content analysis can be a useful means to examine policy debates and changes and to more deeply analyze policy discourse (e.g., Boil-Bennet & Myer, 1978; Burstein, 1985, Burstein & Bricher, 1997). Because it provides a systematic tool to analyze policy documents, they suggest, content analysis can help researchers to build their arguments based on concrete data and empirical evidence. Recognizing the importance and value of policy documents in studying policy discourse and exploiting the methodological strengths that it can offer, this dissertation employs quantitative content analysis to analyze policy documents. As demonstrated above in the method section, however, this dissertation does not intend to argue that other research methods employed in the literature are inferior to quantitative content analysis in the study of policy discourse and analysis of policy documents. Rather, the methods can be complementary. This is why this dissertation uses multiple methods in the same study. Combining qualitative interpretive method and quantitative content analysis, this dissertation intends to complement the existing literature and contribute to minimizing some methodological deficiencies that these two methods might reveal when used in isolation.

Overview of Chapters

The overall structure of the dissertation is as follows. Chapter 1 introduces the study. Chapter 2 then provides a theoretical foundation for the current study by addressing three relevant questions: (1) what is governance?; (2) how is governance
constructed?; and (3) by whom is governance constructed? To justify the need to develop a theoretical framework to answer the research questions, this chapter first of all provides a review of existing literature on emerging governance in global electronic commerce. While this review assesses significant contributions that this body of literature has made to our understanding of the current development of electronic commerce governance, it also reveals some research gaps that the present study intends to fill, which calls for an alternative theoretical framework. Thus, the second part of the chapter develops the theoretical framework, relying on theoretical development in international relations and policy.

The first section addresses how the concept of governance should be understood. To this end, the researcher introduces the social constructivist perspective on governance which maintains that rules, norms and institutions are fundamental features of international systems and must be central to any notion of governance and its operation. The following section discusses how rules, norms and institutions are established and change. In order to explicate this process, this study pays attention to the roles of ideas and discursive practices of social actors in social interactions. Last, based on the recent theoretical development in international relations, the third section discusses who plays the important roles in establishing global rules and norms. By criticizing state-centrism, the discussion recognizes the increasing roles and involvement of non-state actors such as the private sector and non-governmental organizations in international governance.

Chapter 3 describes a procedure for the empirical analysis. Since this study employs frame analysis as a data analysis method, this chapter first presents a conceptual discussion of the frame analysis and its application in social sciences and public policy.
The following section then identifies data sources and describes the data collection method, addressing specifically what international organizations are selected for the data and what types of policy documents are included and how they are collected. As was briefly mentioned above in the method section, six international organizations were selected for the data. The last section of the chapter addresses how this study utilizes both a qualitative interpretive approach and quantitative content analysis for data analysis.

Chapter 4 provides a contextual background for the current study. First, this chapter provides a definition of electronic commerce. The historical development of global electronic commerce is also briefly reviewed. In the following section, the researcher examines major policy issues involved in the governance of global electronic commerce. To accomplish this, among the many electronic commerce-related policy issues, thirteen issues were selected and grouped into three categories as follows: (1) Access (access to infrastructure, access to content, universal access, Internet names and numbers), (2) Trust (privacy, security, consumer protection, content regulation), and (3) Ground Rules (taxation, intellectual property rights, international trade, commercial law, standards). Finally, the chapter identifies key social actors who have been actively involved in establishing global norms and rules in electronic commerce. A brief discussion of who they are and what they have done in these key areas of policy is offered.

Using a content analysis of policy documents selected for the present study, Chapter 5 provides an empirical study of the emerging policy discourse on the governance of global electronic commerce. Through an in-depth examination of sample documents and other supporting materials, the researcher has found three major frames
on the governance of electronic commerce and identified their six constitutive features that include problem definition, objectives, principles, types of intervention and policy instruments, primary actors and their roles, and key metaphors and other rhetorical devices. Coding categories based on these six features have been developed and used for the content analysis of the policy documents. The primary objectives of the empirical analysis are to examine what frames have emerged on the governance of electronic commerce in the international rule-making process and how they have changed over time.

Chapter 6 concludes the current study by summarizing research findings in relation to research questions and discussing them within the context of the theoretical framework that guided the study.
CHAPTER 2

A THEORETICAL FRAMEWORK FOR ANALYSIS

Introduction

Chapter 2 is devoted to laying a theoretical foundation for the current study of how governance is socially constructed in global electronic commerce by addressing three relevant questions: (1) What is governance?; (2) How is governance constructed?; and (3) By whom is governance constructed? The first step in this regard is to review the existing literature, which intends to reveal some research gaps and demonstrate a legitimate need for an alternative perspective to better understand the process by which global rules and norms are established in electronic commerce. The second part of the chapter develops an alternative theoretical framework for the analysis. The first section addresses how the concept of governance should be understood. For this purpose, the present study introduces the rule-based approach to governance. The following section then discusses how rules, norms and institutions are established and change. In order to explicate this process, this study pays attention to the roles of ideas and discursive practices of social actors in social interactions. Lastly, based on the recent theoretical development in international relations, the third section discusses who plays the important roles in establishing global rules and norms.
Review of Relevant Literature

There is a significant amount of research across various disciplines that examines electronic commerce-related issues. Nonetheless, the literature that investigates emerging forms of governance in global electronic commerce is relatively sparse. Reflecting the fact that electronic commerce raises diverse policy issues, the literature examines this process with respect to multiple issues (Cukier, 1998; Spar, 1999; Simon, 2000; Spinello, 2000; Cogburn, 2001), or with respect to a particular issue, such as intellectual property rights (Sell, 1999, 2000; Cheek, 2001), consumer protection (Harland, 2000), Internet domain names and numbers (Mathiason & Kuhlman, 1998; Froomkin, 2000), and standards (Simon, 1998; Salter, 1999; Gould, 2000). Since this section aims to provide a rationale for the present study and more specifically, demonstrate the need for an alternative theoretical framework, it reviews the literature according to the following three theoretical questions that this dissertation will pose in order to develop the theoretical framework as follows: (1) What is governance?; (2) How is governance constructed?; and (3) By whom is governance constructed?

Although the concept of governance appears widely in the literature, most authors simply use it without defining it (e.g., Spar, 1999; Schneider, 2000; Malawer, 2001). They seem to assume that the concept is so well-defined and widely recognized that no further or detailed definition is necessary. For some, governance simply means regulation (Mathiason & Kuhlman, 1998). Nonetheless, some researchers provide its definition explicitly in their works drawing on theoretical developments in political sciences and public policy. For example, distinguishing between governance and government,
Holitscher (1999) defines governance as “activities backed by shared goals that may or may not derive from legal and formally prescribed responsibilities” (p. 8). In his study of the Internet standards process, Gould (2000) also discusses the concept of governance drawing on a definition offered by R. A. W. Rhodes (1996). For Rhodes, governance is “about managing networks” (1996, p. 658). According to him, governance rests on four crucial elements, including interdependence between organizations, continuing interactions between network members, game-like interactions, rooted in trust and regulated by rules of the game negotiated and agreed upon by network participants, and a significant degree of autonomy from the state (Rhodes, 1996 as cited in Gould, 2000, p. 194-5). Based on this concept of governance, Gould attempts to examine whether Rhodes’ approach to governance can be applied to the Internet standards process.

Examining the roles of an international business organization, the GBDe, in establishing rules and norms for global electronic commerce, Cowles (2001) also briefly introduces the concept developed by political scientists and public policy scholars. According to them, governance refers to “self-organizing, interorganizational networks” (Rhodes, 1996, p. 660), “patterns that emerge from governing activities of social, political and administrative actors” (Kooiman, 1993, p. 2) or “the process and institutions, both formal and informal, that guide and restrain the collective activities of a group” (Nye & Donahue, 2000, p. 12). However, Cowles does not further the discussion of governance. Instead, what is interesting to her in these definitions is their view on the roles of states or governments in governance. According to these notions of governance, the state or government is the one who steers networks (Rhodes, 1996) or who “acts with authority” (Nye & Donahue, 2000, p. 12). Employing a concept of the private authority
that is proposed by Cutler, Haufler and Porter (1999), Cowles criticizes this state-
centrism by pointing out that “authority is not necessarily associated with governments”
(as cited in Cowles, 2001, p. 4) and demonstrates how the GBDe has been involved in the
international rule-making process for global electronic commerce.

Irrespective of whether the research provides a definition of governance or not, a
majority of the literature examines the emerging forms of governance in electronic
commerce in one way or another. A review of the literature reveals a tendency in that
these works primarily have concentrated on describing what actors do to establish
governance for electronic commerce. Put differently, their method of explaining the
process by which a certain form of governance has emerged is to pay attention to key
actors and their practices in establishing governance. These practices vary, including
decision-making, formal and informal negotiation, advocacy, lobbying, and agenda-
building. This tendency is widely witnessed in the literature whatever theoretical
approach is taken. Focusing on the issue of consumer protection, for example, Harland
(2000) examines the co-operative efforts of international organizations for effective
regulation of electronic commerce. Describing the WIPO domain name process,
Froomkin (2000) also demonstrates the semi-private nature of rule-making that is
characterized as a cooperative endeavor by a public body and private interests.

This actor-centered approach is noticeable in theory-driven works as well. Most
widely employed in the literature is international regime theory developed by
international relations scholars (e.g., Wu, 1997; Salter, 1999; Cheek, 2001; Cogburn,
2001). Regime refers to “implicit or explicit principles, norms, rules and decision-making
procedures around which actors’ expectations converge in a given area of international
relations” (Krasner, 1983, p. 2). This concept underscores the importance of rules and norms in international systems. The main objective of these works is therefore to examine how international consensus or rules are established by actors and their behaviors in electronic commerce. Proposing a liberal international regime approach to the Internet, Wu (1997) describes how minimally acceptable consensus among individuals can lead to international consensus among the states. In a case study of the standards regime for communication and information technologies, Salter (1999) demonstrates that interplay of global, national and local politics still matters in the globalized world. Another important argument made by Salter is that the standards regime that has always been characterized as “co-management” by the public and private sectors has increasingly shifted toward one that merits the private sector.

Cheek (2001) also demonstrates how international consensus has been built in global intellectual property regime. In order to explicate this consensus-building process, Cheek examines the role of informal transgovernmental networks that are comprised of bureaucrats from domestic agencies. Facilitating the exchange of ideas, Cheek found, their functions are not to replace intergovernmental organizations but to revitalize them and increase their effectiveness in building international consensus (2001, p. 30). Cogburn (2001) provides a slightly different approach to studying the emergence of governance in electronic commerce. He employs regime theory to account for a shift from international telecommunication regime toward the so-called Global Information Infrastructure/Global Information Society regime. Though it is a case study of South Africa, his study is very similar to the approach that this dissertation will take in the sense that it tracks the development of principles, rather than simply focusing on actors and
their practices. His primary interest is to investigate how key principles in the old regime have changed and what types of new principles have emerged.

The actor-centered approach in the literature reveals a couple of weaknesses in explaining the process by which governance is established. On one hand, as a majority of the works show, how each actor’s behavior is related to the others’, and how these behaviors result in a certain outcome in the rule-making process is not well described or explained. On the other hand, while this actor-centered approach accounts well for how key actors behave to accomplish their objectives in the rule-making process, many times, it does not provide an explanation of why these actors behave the way they do, only giving a partial explanation of the process. Put differently, the authors of the literature appear to assume that these actors know what their interests and preferences are, which guides their behaviors in the international rule-making process. In this line of thought, actors’ interests and preferences are exogenously given and determined by external factors such as material power, and are not formed by interactions among actors. Therefore, it is not necessary or possible to account for how these interests and preferences are formed directly out of the rule-making process. This is very problematic because this perspective is sometimes difficult or impossible to retain when the behaviors of actors conflict with their presumed interests and change against their interests in the rule-making process.

Also widely witnessed in the literature is the tendency that the authors have to give primary regard to state actors such as nation states and intergovernmental organizations (IGOs) and their practices, underestimating the increasing roles of non-state actors in electronic commerce governance. In an era of the Bretton Woods system,
nation-states and their representative international organizations were viewed as the most important and unitary actors in the international rule-making process. Reflecting this aspect of international politics, the literature on international rule-making has also tended to focus on state actors, which is also noticeable in the literature on electronic commerce governance (e.g., Cukier, 1998; Malawer, 2001; Cheek, 2001). For example, Malawer (2001) briefly examines the roles of key countries and intergovernmental organizations in establishing electronic commerce governance. Despite his interest in developing countries and indigenous Internet institutions such as the World Wide Web Consortium (W3C), Cukier (1998) also gives primary focus to the functions of intergovernmental organizations.

This state-centrism has been increasingly criticized for its inability to explain the dynamics of a changing global political economy, which can be characterized as decentralization of international governance. Witnessing drastic changes in global political economy, the scholars have turned their attention to the increasing engagement of non-state actors in governing various policy areas where national governments and intergovernmental organizations were viewed traditionally as the sole authority to govern. This recognition has led to an increasing amount of research that examines the roles of non-state actors in international and more specifically electronic commerce governance (e.g., Sell, 1999, 2000; Harland, 2000; Cowles, 2001). These actors include private sector organizations, non-governmental organizations, and indigenous Internet organizations, whose activities vary from lobbying, advocacy, information, and expertise provision to decision and rule-making.
Internet organizations such as Internet Society (ISOC), World Wide Web Consortium, and Internet Engineering Task Force (IETF) have played leading roles in technical coordination and standard setting over the course of the development of the Internet. Claiming that public perception of legitimacy must be won by Internet governance players, Matsuura (2000) proposes criteria for legitimacy and methods to establish it. He states that technical expertise of Internet organizations provides a great asset for these organizations in playing important governance roles for the Internet. Arguing for a regime for Internet domain names, Mathiason and Kuhlman (1998) examine different perspectives on what governance involves for key players who are Internet organizations (they call them “the netizens”), the corporations, telcos, ISPs, national governments, and intergovernmental organizations. In order to better understand Internet governance, Gould (2000) also examines different types of standards processes developed by the Internet organizations, International Telecommunication Union and the Internet Corporation for Assigned Names and Numbers (ICANN).

Due to its increasing takeover of authority from states and intergovernmental organizations in international governance, the private sector and its leading role in establishing governance have captured the most attention from scholars regarding electronic commerce governance (e.g., Salter, 1999; Spar, 1999; Holitscher, 1999; Cowles, 2001). Most of the literature recognizes the increasing roles that the private sector has played in electronic commerce governance even when state actors are still at the center of attention in studying the process of rule-making for electronic commerce (e.g., Froomkin, 2000; Harland, 2000). Employing a concept of private authority, Cowles (2001) examines the GBDe’s efforts to establish norms, rules and principles to shape the
global policy framework for electronic commerce. She argues that advocacy and expertise have played a significant role for the GBDe in winning legitimacy and authority for electronic commerce governance. Similar efforts to explicate how the private sector creates global rules and norms are also made by Sell (1999, 2000). Addressing various roles of the Intellectual Property Committee (IPC) which is comprised of twelve CEOs of US-based multinational corporations and their advisors, she examines its critical role in creating a global intellectual property rights regime. Interestingly, Sell (2000) categorizes the types of corporate power as direct and indirect powers and describes each in the context of an intellectual property rights regime. According to her, while direct power refers to provision of information and expertise, lobbying activities, and institutional access, the indirect and normative power means “its ability to mobilize an inter-sectoral transnational private sector consensus on substantive norms for intellectual property protection and framing of key policy problems” (p. 100).

By the same token, as various international conferences and meetings illustrate, non-governmental organizations or civil society actors have been actively involved in establishing electronic commerce governance as well. Nonetheless, these actors and their activities have been given the least attention by scholars and have been surprisingly underestimated. Only one piece of research in the literature recognizes their roles relatively seriously in establishing electronic commerce governance (Harland, 2000). Examining the role of law and the impact of international organizations in electronic commerce regulation, Harland surveys various efforts of international organizations to form international cooperation for establishing basic principles to protect consumers in electronic commerce. Despite his more serious recognition of intergovernmental
organizations and their roles, he also does not leave out the role of nongovernmental organizations such as Consumers International and the Bureau Europeen des Unions des Consommateurs (BEUC).

As demonstrated above, this literature review has served to reveal some research gaps and underscore the need of an alternative theoretical framework that may more adequately explain the emerging forms of governance in global electronic commerce. Though the literature makes substantial contributions, this body of literature offers limited explanations. First of all, despite their frequent use of the term “governance,” the authors do not explain what it means, leaving readers confused about how this abstract concept relates to what they examine. Governance needs to be defined theoretically because it is a more comprehensive term than “regulation” or “regime,” which are terms the literature frequently employs to explain what is meant by governance.

Secondly, the existing works are limited in accounting for why actors do what they do, because of their focus on actors and their behaviors in the rule-making process. Two problems arise out of this limitation. On one hand, by supposing that actors’ interests and preferences as exogenously given, the literature is unable to explain changes in those interests and preferences in the negotiation and rule-making process. On the other hand, focusing on fragmented organizational activities in the international rule-making process, some works are unable to explain how various activities of different actors are related to each other and through what process those activities lead to creation of a particular form of governance. This dissertation attempts to solve these problems by employing an approach that emphasizes the roles of ideas and discourse in the rule-making process.
Lastly, though most of the literature recognizes a significant role for non-state actors in electronic commerce governance, there are some limitations and gaps to be filled in the literature. Most works tend either to examine the role of non-state actors in a specific policy area such as standards and Internet domain names where non-state actors have played the leading roles from the invention of the Internet, or they focus on one specific actor, such as GBDe and IPC. Moreover, in many cases, non-state actors are considered but underrecognized compared to state actors. The paucity of existing works that employ a more comprehensive and integrative approach to the roles of various social actors in establishing electronic commerce governance has led the author to pay more equal attention to various actors in the international rule-making process for electronic commerce.

In order to fill the research gaps and complement weaknesses revealed in this literature review, the present study develops an alternative theoretical framework in the following section. Constructivism in international relations and public policy provides useful resources for the development of a framework that allows a more adequate understanding of the process by which a particular form of governance in global electronic commerce has been established and has changed.

**Development of the Theoretical Framework**

**Governance: the rule-based approach**

Although the concept of governance is not new and has been part of academic discourse for a long time, there has not been a clear consensus on what governance means or how it operates. One indication of this vagueness is that governance tends to be
equated with government. While they share many common features, however, governance is a broader notion than government. In other words, governance needs to be understood as not only embracing but also transcending the collective meaning of state, government or regime. James Rosenau, who is regarded as bringing the term to the academic debate in international relations, clearly distinguishes between government and governance.

Government suggests activities that are backed by formal activities, by police powers to insure the implementation of duly constituted policies, whereas governance refers to activities backed by shared goals that may or may not derive from legal and formally prescribed responsibilities and that do not necessarily rely on police powers to overcome defiance and attain compliance. Governance, in other words, is a more encompassing phenomenon than government. It embraces governmental institutions, but it also subsumes informal, non-governmental mechanisms whereby those persons and organizations within its purview move ahead, satisfy their needs, and fulfill their wants. (Rosenau, 1992, p. 4)

The notion of rule is central in understanding the meaning of governance and its operation. Rosenau defines governance as “a system of rules that is dependent on inter-subjective meanings and therefore works only if it is accepted by the majority” (Rosenau, 1992, p. 4). A group of scholars called constructivists also relates the concepts of rules and institutions to the notion of governance. According to them, rules are the fundamental elements of any social system, national or international, because rules describe “some class of actions and indicate whether these actions are warranted conduct on the part of those to whom these rules are addressed” (Onuf, 1989, p. 78-81).

Following Anthony Giddens, these scholars argue that agents and social structures constitute each other. Individuals make societies through their actions and practices, and societies constitute individuals through those same actions. This co-constitution of individuals as social beings and of structures is a recursive and continuous process. Rules
are essential to this process because they “make individuals agents in society, and they
give any society the distinctive character (or structure) that observers see in the
institutions peculiar to that society” (Onuf, 1998, p. 172-3).

Rules refer to “statements that identify standards of conduct for given sets of
actors in given situations” (Sandholtz, 1999, p. 81). Rules can be differentiated
according to two dimensions: formality and specificity. While formal rules tend to be
codified in writing, informal rules refer to our collective understanding of what
constitutes accepted behavior. In international relations and laws, rules and norms are
used interchangeably. All rules are normative, and all norms can be stated only in the
form of rules (Onuf, 1997, p. 10). Norms are then defined as “collective expectations
about appropriate behavior for actors with a given identity” (Jepperson et al., 1996, p. 54).
Put differently, rules and norms constitute shared interpretations and intentions for actors
in a community. In a broader sense, their presence is a defining feature of the human
condition since even most transient interactions require rules. Rules and norms are social
phenomena. As Wiener (2001) points out, while rules and norms are not recognized
“without a minimum of social interaction, the construction of the rules and norms is also
based on social interaction as the basic process by which norms are shaped” (p. 23-4). By
the same token, rules cause behaviors by both constraining and enabling those behaviors
by social actors. Hopf (1998) thus states:

Meaningful behavior, or action is possible only within an intersubjective social
context. Actors develop their relations with, and understanding of, others through
the media of norms and practices. In the absence of norms, exercises of power, or
actions, would be devoid of meaning. Constitutive norms define an identity by
specifying the actions that will cause others to recognize that identity and respond
to it appropriately. (p. 173)
Rules are always linked to other rules in content as well as function. This cluster of rules is called an institution. March and Olsen define institution as “a relatively stable collection of practices and rules defining appropriate behavior for specific groups of actors in specific situations” (March & Olsen, 1999, p. 308). Institutions should not be equated with organizations because institution is a more encompassing category than organization. Rather, organizations are a subset of institutions. Rules and related practices are virtually inseparable, because every response to a rule affects the rule and its place in an environment of linked rules. Constructivists argue that nation states are institutions which consist of “highly formalized (codified) rule systems with a high degree of behavioral specificity and full-fledged organizational supports” (Sandholtz, 1999, p. 83). Put differently, rules are the substance of institutions. As Onuf (1998) puts it:

Rules define agents in terms of institutional arrangements, and institutions in terms of agents, but never definitively. Many institutions act as agents because their rules constitute them as such. As rules change in number, kind, relation and content, they constantly redefine agents and institutions, always in terms of each other. As Giddens states, all rules are inherently transformational. (p. 173)

Since it is constituted by the deeds of various kinds of social actors, the international system of relations must also be viewed as a society. By the same token, since this constitution relies on rules, international relations are essentially rule-guided behavior. Put simply, international society is marked by the presence of many rules that vary in formality and specificity. March and Olsen point out that these rule-guide behaviors are always a “conscious process whereby actors have to figure out the situation in which they act, apply the appropriate norm, or choose among conflicting rules” (March

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1 In mainstream international relations, a more popular term for these sets of rules and related practices is “regimes”. Sociologists tend to use “institutions” instead of.
and Olsen, 1998 as cited in Risse, 2000, p. 5). Sandholtz (1999) states that international politics is shaped by complex structures of rules. To constructivists, international society is not different from nation-states in that both are a form of institution. Since they believe that social institutions are simply “an artifice of man-made institutions,” the constructivists argue that “both international system and the state are normatively constituted practices” (Koslowski & Kratochwil, 1994, p. 222-3). They are different from each other only in that each is constituted by different degrees of rule structures. In other words, while low levels of formalization and specificity characterize international society, states are highly formalized and specified rule systems (Sandholtz, 1999, p. 83).

In mainstream international relations, in particular, in realism and neorealism, the notion of governance has been rarely used while scholars have preferred to employ a concept of “the coordination of different state interests” to address collective action problems in the international system. According to these theories, international cooperation is only possible either when a common accord of all participating states is reached or when a hegemonic power state can drive it. Moreover, they further argue that coordination of different state interests under anarchy is an outcome of the rational decision of sovereign states to co-operate, which existing institutions are also based on.\(^2\)

As Jachtenfuchs (1997) points out, states cooperate in order to pursue their own interests, which institutions facilitate by reducing transaction costs (p. 43). In this view, states are seen as self-interested actors whose goal is to realize their interests through strategic

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\(^2\) This line of research is based on rational choice model whose key object to explain human behavior is utility maximization. When faced with various options, an individual always picks the one that best serve his/her interests and preferences. In most cases, these interests refer to material goods such as power or wealth.
behavior (Risse, 2000, p. 3). While interests are treated as mostly fixed, and they exist before co-operation and independent of it, norms and institutions “at most constrain the choice and behavior of self-interested states, which operate according to means-ends calculations” (Checkel, 1998, p. 327).

On the contrary, constructivists reject the rationalist interpretation of state behavior as utility-maximizing in favor of a conception of states as role-players (Hasenclever, Mayer & Rittenberger, 1997, p. 156). The idea of role-playing can be best explained by what March & Olsen (1989) describe as the logic of appropriateness. This logic assumes that individuals aspire to work within the institutional roles, rules, and routines that specify what behaviors are appropriate in response to various situations. March & Olsen (1998) maintain that “human actors are imagined to follow rules that associate particular identities to particular situations, approaching individual opportunities for action by assessing similarities between current identities and choice dilemmas and more general concepts of self and situations” (p. 951). To constructivists, institutions are essentially cognitive entities that “do not exist apart from actors’ ideas about how the world works” (Wendt, 1992, p. 399). In order to explain cooperation among states in the international system, they pay attention to how the expectations produced by behavior affect identities and interests. As Wendt (1992) points out, the process of creating institutions is “one of internalizing new understandings of self and other, of acquiring new role identities, not just of creating external constraint on the behavior of exogenously constituted actors” (p. 417).

In sum, given that rules and institutions are fundamental features of the international system, rules and institutions must be central to any notion of governance.
and its operation. In this sense, governance closely relates to the process by which rules are created and changed by various social actors. By the same token, governance is conducted and operated by actors through rules and rule structures, namely institutions. Oran Young thus points out that governance refers to “the establishment and operation of social institutions capable of resolving conflicts, facilitating cooperation, or, more generally, alleviating collective action problems in a world of interdependent actors” (Young, 1994, p. 15). Vayrynen (1995) also describes international governance as “collective actions to establish international institutions and norms to cope with the causes and consequences of adverse supranational, transnational, or national problems” (p. 25). The emergence and evolution of transnational rules and international institutions is then the manifestation of international governance and its operation.

**Ideas, discourse and the international rule-making process**

If governance is seen as the establishment of rules and institutions to deal with various forms of interactions among social actors, the next issue to be raised is how those rules and institutions are created and established. Moreover, this issue also concerns how established rules and institutions, once created, evolve or change. To address these issues, scholars direct the theoretical attention to the roles of ideas and discourse in social interactions. In international relations and public policy, ideas and discourse have increasingly captured the attention of scholars who employ these concepts to explain changes in foreign policy and state action. Although their positions vary as regards how much ideas and discourse matter, and what the relationship between ideas and material
In a general sense, mainstream international relation scholars tend to believe that “ideas do not construct and structure social reality, but only reflect the material world and serve to justify material causes” (Adler, 1997, p. 324). Dissatisfied with unexplained variance in rationalist models, a group of scholars called the neoliberal institutionalists have turned their attention to the impact of ideas on international policy and political outcomes (Goldstein & Keohane, 1993). Defining ideas as beliefs held by individuals, they connect ideas “causally with the policies that they seem to justify, by which they aim to discover the degree of impact that ideas have on foreign policy and thus on state action” (Laffey & Weldes, 1997, p. 193). These scholars who understand the role of ideas as principled or causal beliefs also regard ideas as road maps for actors, as Goldstein and Keohane (1993) put it:

Ideas influence policy when the principled or causal beliefs they embody provide road maps that increase actors’ clarity about goals or ends-means relationships, when they affect outcomes of strategic situations in which there is no unique equilibrium, and they become embedded in political institutions. (p. 3)

While the step that these scholars take towards including ideational factors beyond material resources to explain political outcomes is welcomed, this approach has also been criticized for its limitations. Laffey and Weldes (1997) maintain that its turn to ideas represents “only a minor modification of the rationalist tradition, rather than a serious challenge to it” (p. 194). According to critics, within this rationalist framework, ideas are conceptualized as individual rather than social phenomena. This is because rationalism generally “takes the individual as its basic unit of analysis and focuses on
individual rationality” (Laffey & Weldes, 1997, p. 196). As a result, this approach is not free from a familiar criticism of the mainstream international relation theories because it “remains clearly anchored in a rationalist, positivist model which assumes exogenous interest formation” (Wiener, 2001, p. 19). Put differently, this approach suggests that interests are distinct from and can be determined in isolation from ideas, rather than significantly shaped or constituted by them. As for the problem that this rationalist assumption creates, Laffey and Weldes (1997) state that:

Retaining the distinction between interests and ideas creates a tendency to understand ideas merely as tools which are used by policy-makers to manipulate various audiences, such as international elites, domestic publics or bureaucracies. If decision-makers’ interests are defined as analytically distinct from ideas, then ideas are easily dismissed as ‘mere justification’, as post-hoc rationalization of policies made on the grounds of already given material interests. The retention of this distinction reinforces rather than challenges a model of the actor as a rational, calculating decision-maker, wielding ideas as weapons in the battle to procure given material interests. (p. 200-1)

Constructivism offers a different understanding of ideas from the rationalist model of international relations. Constructivists suggest that ideas and knowledge are essential building blocks of social reality. According to them, ideas neither simply reflect nor are determined by interests. Since socially shared ideas and knowledge define how actors interpret their material environment, these ideas and knowledge are thought to define the social identities of actors, and then constitute actors’ interests and shape their actions (Price & Reus-Smit, 1998, p. 266). In this sense, ideas not only are prior to material interests but determine those interests and the subsequent behaviors. As Adler

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3 In Ideas and Foreign Policy: Beliefs, Institutions, and Political Change (1993), Goldstein and Keohane acknowledge that their approach to ideas does not “challenge the premise that people behave in self-interested and broadly rational ways” (p. 5).
(1997) properly points out, ideas are thus “the medium and propellant of social action; they define the limits of what is cognitively possible and impossible for individuals” (p. 325). Put differently, the particular ideas held and advocated by certain actors can influence the way other actors perceive social reality and then alter the interests of those actors. Since social actors translate ideas into normative structure, constructivists give much regard to how these actors create the intersubjective meaning upon which rules and institutions are based (Payne, 2001, p. 38).

By the same token, constructivists maintain that discursive practices such as argumentation, deliberation, and persuasion constitute a distinct mode of social interaction. They thus propose focusing on these practices in order to understand how social actors develop intersubjective meaning, concerning both a definition of the situation and a consensus about the underlying rule structures (Risse, 2000). Great attention has therefore been given to the roles of discourse and communication in the creation and change of international rules and norms. The use of language in the interaction of social actors constitutes the basis of a collective process of interpretation and understanding of social realities. Discourse refers to the “specific ensemble of ideas, concepts, and categorizations that are produced, reproduced, and transformed in a particular set of practices and through which meaning is given to physical and social realities” (Hajer, 1993, p. 44). Discourse and discursive practices among social actors lead them to reinterpret their actions and contexts in which those actions are made, which then affects a course of strategies for them to achieve their interests. In this sense, to constructivists, even material interests are unstable and dependent on discursive practices (Braun, 1999, p. 22).
According to constructivists, rules and institutions as rule structures are constantly changing. What makes those changes in rules is interaction between rules and practices (Sandholtz, 1999, p. 87). Sandholtz (1999) argues that “dialogue among social actors concerning the meaning of rules and behaviors is what connects rules to practices, and ensures that they evolve together” (p. 87). Put differently, as Murphy (2000) properly points out, institutions, national or international, are viewed as “dialogical phenomena and as states of affairs created by international actors in their interaction” (p. 797). Social actors and their actions are both constrained and enabled by their commitments to each other and by rule structures that they establish through discursive practices. In the world of socially constructed institutions, then, what matters is persuasive communication by which social actors attempt to convince others that their ideas and actions in question constitute warranted behaviors. Finnemore and Sikkink (1998) state that persuasion is “the process by which agent action becomes social structure, ideas become norms, and the subjective becomes the intersubjective” (p. 914).

Although constructivists underscore the roles of discursive practices in the creation and change of rules and institutions, they insist that neither is it true that only discourse matters nor that power and material resources are meaningless in this process. Rather, they fully understand that power and material resources can have significant influence on both social actors’ discursive practices and the process by which rules and institutions are created and changed through those practices. What they really focus on is how discursive practices, material interests, and power are articulated in the social construction of rules and institutions. As Sandholtz (1999) puts it:
Those with the resources can bribe or compel others to assent to their arguments and interpretations. Thus powerful actors win more arguments than weak ones. But that is not to say that capabilities explain everything, for not even the most powerful actors can remove themselves from the web of rules. Rather, the purposes on behalf of which actors exercise power are shaped by the rules that define roles, interests, and even how to count gains and losses. Power cannot be separated from purpose, and purpose is dependent on socially constructed roles and values. Furthermore, even powerful actors seek to justify their actions. In doing so they can only deploy the categories and normative principles that are available in the existing structures of rules. (p. 88)

Through dialogic interaction and discursive practices, social actors interpret, apply, negotiate, and thus modify the rules. More importantly, these practices and this interaction are made in highly contested contexts where social actors find that their own ideas and norms confront and must compete with other ideas and norms and perceptions of interests. The negotiation and change of existing rules lead oftentimes to the emergence of modified or new rules and norms. These modified or new rules and norms then provide reasons and the basis for subsequent actions.

Constructivists have employed various concepts to elaborate the role of ideational and discursive practices. Among them, the concept of a frame has been increasingly adopted by scholars in international relations and public policy to explicate the discursive nature of international rule-making and policy process. A frame is a kind of persuasive device by which social actors can create intersubjective meanings. Rein and Schon (1991) define a frame as:

A perspective from which an amorphous, ill-defined problematic situation can be made sense of and acted upon. Framing is a way of selecting, organizing, interpreting, and making sense of a complex reality so as to provide guideposts for knowing, analyzing, persuading, and acting. (p. 263)

The process of framing is aimed at constructing a problematic situation in particular ways, making certain definitions of the situation and rules and norms acceptable and desirable.
Since frames indicate what is appropriate behavior in a certain situation, they are “basic building blocks for the construction of broadly resonant rules and norms and they thereby serve to legitimate normative orders” (Payne, 2001, p. 39).

Social actors and international governance

In mainstream international relation theories, realism and neorealism, power and authority have been believed to rest with states (Higgott, Underhill & Bieler, 2000, p. 1). States are the most important unit of the international system and are viewed as rational, coherent, autonomous, and unitary actors in an anarchical state of nature. These theories assume that states are all locked into their own survival and into their own interests. Since each state’s interest will clash with that of other states and there is no centralized government or political authority to deal with the clash of different interests, the use of physical force by states against each other is always a possibility, and maximizing individual security is the most important goal for states in this system. States are then thought to be rational in the sense that they carefully “calculate costs of alternative courses of action and seek to maximize their expected utility” (Keohane, 1986, p 165). In this line of thought, as Underhill (2000) states, “the inter-state politics of security would largely determine the pattern of economic relations in the larger international system” (p. 25). While the primary interest of states is in the ‘high politics’ of security, according to these mainstream theories, states “predominate over social forces and non-state actors” (Hobson, 2000, p. 7).

As the international system is increasingly marked by “turbulence,” and other social forces emerge as important actors in international governance, however, this state-
centrism has recently come under scrutiny empirically and theoretically (Rosenau, 1990). For example, Oran Young (1999) suggests that the state-centric approaches to international regime “run the risk of introducing a conservative bias into regime theory and fails to confront many interesting developments currently under way in international and transnational affairs” (p. 9). These new developments are primarily the outcomes of the growing integration of national economies at regional and global levels, which poses many problems for nation states in order to keep up with the rapidly changing policy environment, and which also leads to the lack of capacity in expertise and resources for efficient domestic and international governance.

In addition, the end of the Cold War significantly undermined the old world order that forced states to seek military power and material resources, and has increasingly shifted international relations toward a more rule/norm-based system. As international governance, which has been long commonly understood as action by states, becomes more complex and difficult, it has embraced what Rosenau calls “sovereignty-free actors” that include multinational corporations, regional organizations, ethnic groups, bureaucratic agencies, political parties and a host of other types of collectivities (Rosenau, 1990, p 36). These non-state actors have significantly taken up the states’ authority in governing many areas of international political economy. Haas (1999) describes this transfer of state authority as international decentralization by which he means “moving from an international system centered solely on states to more decentralized arrangements in which states share responsibilities with international institutions and a variety of non-state actors” (p. 104).
This change has been notable at both domestic and international levels. Most significantly, the private sector has emerged as a powerful form of authority in both national and international governance in the last couple of decades, which has been accompanied by a structural transformation in capitalism. A shift from the post-war Keynesian welfarism towards a neo-liberal world order has been widely witnessed since the 1970s. This neo-liberal world order is characterized by the growing supremacy of capital over labor and even the nation-states. As for the role of transnational corporations, in particular, Strange (1996) suggests that the power shift from state to markets in a neo-liberal world order has actually made political players out of the transnational corporations, which have become the central organizers and the engines of growth in the global economy (p. 44-5). This shift involves the prevalence of neo-liberal ideologies in the practices and organizational forms of key political and social institutions such as state, market, and international organizations (Gill, 1995, p. 69). It directly affects the rearrangement of power relations among key actors at domestic as well as international levels.

As national economies have become more integrated into a global whole, the private sector has expanded its influence beyond national boundaries and has emerged as a powerful player in establishing international norms and rules. As Murphy (2000) points out, “what is really new about global governance in the last decade is global-level “private” authorities that regulate both states and much of transnational economic and social life” (p. 794). It has been a routine business practice for a long time that the private sector has lobbied national governments to represent its interests in multilateral trade negotiations and exercise unilateral and bilateral measures to punish foreign countries for
unfair trade behaviors. What is notable recently regarding the role that the private sector plays in this globalizing world is its collective effort to exert influence on the international rule-making process by forming associations, alliances or formal organizations. While these private organizations reconcile the different stakes of their members on the particular policy issues and draw consensual agreements on these issues, they are actively engaged as participants in the rule-making process, advocating the private sector’s position on the issues at stake in the negotiation at domestic and international levels. In the past, these organizations operated primarily on the domestic level. However, such political representation in the rule-making process has increased remarkably at the international level as international negotiations are opening up to non-state actors (Cutler, Haufler & Porter, 1999, p. 12).

Another important development in mechanisms of international governance concerning the private sector is “the ways in which states delegate public responsibilities to the private interests” (Underhill, 2000, p. 35). States often are unwilling to intervene in establishing rules and norms for certain areas of commerce, especially when their governance is global in scale and requires expertise and knowledge that states do not have. At the same time, in many cases, intergovernmental organizations have exposed an inability to govern effectively. As a response to these governance problems, the states have preferred transferring authority to the private sector. While states have initiated this transfer, for various reasons, the private sector is also forcing the states to give up that authority. Businesses cooperate to establish the rules and norms of behavior for
themselves and others, taking on the mantle of authority in those areas.\textsuperscript{4} In her study of the influence of non-state actors in international politics, Haufler (1993) demonstrates that the activities of private organizations can be similar to the activities of states in establishing international regimes. Moreover, her observations about international cooperation among competing businesses to establish private regimes lead to a claim that “one of the most significant and growing sources of international governance is the private sector” (Haufler, 1998 as cited in Greenwood, 2000, p. 245).\textsuperscript{5}

Another type of non-state actor that plays a significant role in international governance is non-governmental organizations (NGOs). Despite significant growth in the scholarly literature about nongovernmental organizations and civil society, a precise and academically acceptable definition of nongovernmental organization still remains to be formulated (Judge, 2000). In common usage, nonetheless, it refers to “a private, self-governing, not-for-profit organization dedicated to alleviating human suffering; and/or promoting education, health care, economic development, environmental protection, human rights, and conflict resolution; and/or encouraging the establishment of democratic institutions and civil society” (Aall, Miltenberger & Weiss, 2000, p. 89). Thus,

\textsuperscript{4} Six types of cooperative arrangements between businesses can be identified from least to most institutionalized or comprehensive: informal industry norms and practices; coordination services firms; production alliances, subcontractor relationships and complementary activities; cartels; business associations; and private regimes (Cutler, Haufler & Porter, 1999, p. 354).

\textsuperscript{5} Haufler (2000) explains the goals that the private sector aims to achieve through the private regimes as follows: “the goal of establishing international standards driven by the need to increase efficiency in global transactions; the goal of maintaining industry autonomy by pre-empting or preventing government regulation; the goal of ensuring the security of transactions; and the goal of responding to societal demands and expectations of corporate behavior” (p. 126).
nongovernmental organizations are private in form, in the sense that they are not associated with government, but they are public in purpose. These organizations include:

officials, independent sector, volunteer sector, civic society, grassroots organizations, private voluntary organizations, transnational social movement organizations, grassroots social change organization and non-state actors….These organizations consist of durable, bounded, voluntary relationships among individuals to produce a particular product, using specific techniques. (Gordenker & Weiss, 1996, p. 18)

As the Commission on Global Governance (1995) points out, these groups can “offer knowledge, skills, enthusiasm, a non-bureaucratic approach, and grassroots perspectives….Many …also raise significant sums for development and humanitarian work, in which their dedication, administrative efficiency, and flexibility are valuable additional assets” (p. 33 as cited in Hajnal, 1997, p. 139).

While non-governmental organizations have existed for a long time and have been actively engaged in addressing social issues at a domestic level, what is really noticeable in recent years is the tremendous explosion in numbers, activity, and visibility of international initiatives by these organizations on a variety of issues. In the face of powerful global market forces that are increasingly determining the national economic destiny and the inability of the nation-state to offer much protection, civil society actors have been aware of the urgent need of international alliance to address concerns of citizens alienated from the globalization process, and to advocate their interests in the negotiation and decision of international issues. Among many other reasons, the exponential growth in the number of nongovernmental organizations and in the variety of causes they support at the international level has been primarily due to the remarkably improved communications. While advanced information and communication
technologies have allowed nongovernmental organizations to be better informed about what is happening outside their national border, these technologies along with efficient transportation have made it much easier and more effective to maintain contacts and build alliances among those organizations across countries. In particular, the Internet has greatly aided “low-cost networking and coalition-building among nongovernmental organizations wishing to mobilize jointly against a common concern” (Braitwaite & Drahos, 2000, p. 497). By the same token, as Ottaway (2001) suggests, “the renewed interest in democracy that has followed the demise of socialist regimes has prompted donor countries to launch civil society assistance programs, resulting in the formation of tens of thousands of nongovernmental organizations across the world” (p. 271).

The significant role of civil societies and non-governmental organizations in formulating and implementing international decisions and policies has increasingly attracted the attention of scholars regarding how international governance is established by various actors (Smith, Chartfield & Pagnucco, 1997; Fox & Brown, 1998; Keck & Sikkink, 1998; Turner, 1998; Scholte, 2000b; Stiles, 2000). As Brown, Khagram, Moore and Frumkin (2000, p. 283) describe, there are various ways these civil society actors are engaged in international governance:

- Identifying problematic globalization consequences that might otherwise be ignored.
- Articulating new values and norms to guide and constrain international practice.
- Building transnational alliances that advocate for otherwise ignored alternatives.
- Altering international institutions to respond to unmet needs.
- Disseminating social innovations that have international applications.
- Negotiating resolutions to transnational conflicts and disagreement.
- Mobilizing resources and acting directly on important public problems.
In sum, as international politics is becoming increasingly polycentric, states are not seen as the sole actors that are responsible for international governance anymore. As the structural transformation represented by globalization in the international political economy has created difficulty and complexity for states in managing global issues, various types of non-state actors that are believed to have more expertise and resources to deal with those issues have emerged as important players in formulating and implementing international decisions and policies. Therefore, international governance need not be viewed as belonging exclusively to national governments and the intergovernmental organizations to which they delegate authority. Nye and Donahue (2000) thus state that “private firms, associations of firms, nongovernmental organizations (NGOs), and association of NGOs all engage in governance, often in association with governmental bodies, to create governance; sometimes without governmental authority” (p. 12). In this sense, Murphy (2000) describes this complex new global polity as follows:

The global polity is all these things: neo-liberal ideology with its world-wide significance, a growing network of both public and private regimes that extends across the world’s largest regions, the system of global intergovernmental organizations, some of which are relatively autonomous and powerful, and transnational organizations both carrying out some of the traditional service functions of global public agencies and also working to create regimes and new systems of international integration.(p. 796)

Summary

Due to the broad social and economic implications of electronic commerce, the rule-making process and the emerging forms of governance for global electronic commerce have increasingly captured the attention of scholars across various disciplines.
Despite some substantial contributions to understanding this process, a review of the literature reveals some weaknesses in the study of the emerging forms of governance in global electronic commerce. This chapter addresses these weaknesses and proposes an alternative theoretical framework for a better understanding of this process.

First of all, despite their frequent use of the term “governance,” the authors in the literature do not explain what this term means, leaving readers confused about how this abstract concept relates to what they examine. Governance needs to be defined theoretically because it is a more comprehensive term than “regulation” or “regime,” which are terms the literature frequently employs to explain what is meant by governance. Given that rules and institutions are fundamental features of the international system, they must be central to any notion of governance and its operation. In this sense, governance closely relates to the process by which rules are created and changed by various social actors. By the same token, governance is conducted by actors through rules and rule structures, namely institutions. The emergence and evolution of transnational rules and international institutions is then the manifestation of international governance and its operation.

Second, in order to investigate emerging forms of governance in global electronic commerce, the existing literature has primarily focused on actors and their behaviors in the negotiation and decision-making process. This approach, however, provides only a partial explanation of this process because it oftentimes does not and can not explain why the actors do what they do. To overcome this limitation, this chapter suggests a different approach to the issue, one in which attention is given to the roles of ideas and discourse. According to this approach, ideas neither simply reflect nor are determined by interests.
Instead, the particular ideas held and advocated by certain actors can influence the way other actors perceive social reality and then alter the interests of those actors. The actors’ interests which are believed to guide their behaviors are determined by particular ideas, and these interests and ideas are changed through discursive practices in the rule-making process. In order to explicate how a particular form of governance is established, then, attention should be given to ideas held and discourse engaged in by these actors, and not simply to the actors’ behaviors.

Last, the literature on the international rule-making process has tended to underestimate the significant role of non-state actors by paying the primary, if not exclusive, attention to state actors such as national governments and intergovernmental organizations. A similar tendency toward state-centrism is widely noticed in the existing work on electronic commerce governance. There have been rare attempts to examine the international rule-making process in electronic commerce as a whole and to consider the competing efforts of various actors, including both state actors and non-state actors in establishing global rules and norms for electronic commerce. By taking a broader view on international politics that embraces not only state actors but also various non-state actors as key players in creating governance for global electronic commerce, such an approach would provide a more comprehensive and dynamic account of the international rule-making process. By shedding light on the process through which various social actors compete to legitimize and win popular support for their definitions of problems, the proposed approach will contribute to a better understanding of how a particular form of governance has emerged in global electronic commerce.
CHAPTER 3

METHODOLOGY

Introduction

The purpose of the present empirical study is to explore the political process leading to the emergence of global rules and norms on the governance of electronic commerce. This study does not intend to examine the political process in terms of how actors pursue their interests through decision-making processes. Rather, this study is interested in the ideas of those actors concerning the policy issues and their discursive practices to control collectively shared meanings on these issues in the rule-making process. In this sense, the political process can be equated with the communicative process. Instead of focusing on actors and their behaviors, discourse is given the primary attention in order to examine the political process at stake. The development of international rules and norms on electronic commerce governance is thus seen as a process in which actors develop their ideas and views on the issue and act in accordance with these views. In order to analyze discourse on the governance of electronic commerce, the study employs frame analysis, which directs attention to frames, their emergence, conflicts and change.
As described in the following section, this study mainly analyzes policy documents of international organizations which have played the leading roles in setting the policy agenda for electronic commerce and which are regarded as representing the stakes of different actors in the issue. In the discussion and negotiation at these organizations, actors present their own definitions of policy problems and frames that “serve as filters for actors using them to make sense of the world and as frameworks of rationality guiding their action” (Jachtenfuchs, 1996, p. 43). By paying attention to the process of the emergence of certain frames, the conflict between them, and subsequent changes in these frames, the present study aims to examine how particular types of global rules and norms have emerged with respect to the governance of electronic commerce.

The purpose of this chapter is to describe the procedure for the empirical analysis. Since this study adopts frame analysis as a data analysis method, a brief theoretical overview is first presented. The following section identifies data sources and describes the data collection method, addressing specifically which international organizations are selected for the data and what types of policy documents are included in the primary data. In the last section, a brief description of the analytical procedure in the frame analysis is provided.

A Brief Overview of Frame Analysis

The concept of frame and its adoption in social sciences

A number of scholars in humanities and social sciences have found that the concepts of “frame” and “framing” serve a useful purpose in analyzing various forms of discourses or texts. For example, in communications, news discourse studies have widely
adopted these concepts to investigate how news media represent social phenomena. The concept of frame was first developed by Erving Goffman as a way to classify, organize and interpret our life occurrences in order to understand them. He defines frames as “schemata of interpretation that enable individuals to locate, perceive, identify and label” our life experiences (Goffman, 1974, p. 21). He has developed “frame analysis” which centers on the structures that shape and form social interaction and communication. For Goffman, “framing” is a process though which societies reproduce meaning.

In general, the concept of frame and framing has developed along three disciplinary perspectives: psychological, sociological and communicative. Psychologists view framing as “information processing schemata” focusing on individual cognitive processes. Their interests in examining framing effects are generally in the relationship between context and information as it determines meaning. As Fiske and Taylor (1991) point out, from a psychological standpoint, frames are seen as “discursive or mental structures that are closely related to the ideas of scripts and schemas as well as other standard constructs from the literature on social cognition” (as cited in Simon & Xenos, 2000, p. 4).

On the other hand, sociologists tend to focus on the way frames thematize accounts of social events and issues. In this sense, frames are defined as “central organizing ideas for making sense of relevant events and suggesting what is at issue” (Gamson, 1989, p. 157). This view is widely shared among sociologists who are interested in assessing the success and failure of social movements. For example, Snow et al. argue that what is at issue in social movement theory is “not merely the presence or absence of grievances, but the manner in which grievances are interpreted and the
generation and diffusion of those interpretations” (Snow, Rochford, Worden & Benford, 1986, p. 466). Beford (1994) defines framing as the process by which “ordinary people make sense of public issues” (p. 1103). They suggest that social movements actively use frames to assign meaning to social problems. If successfully done, this will lead to mobilization of the public around their definition of realities.

Frame analysis has also become popular among communication scholars for its usefulness in studying the process of the selection and highlighting of particular aspects of reality by the media. For these scholars, framing is understood as a strategy of constructing and processing news discourse. Gitlin (1980) conceptualizes frames as “persistent patterns of cognition, interpretation, and presentation, of selection, emphasis, and exclusion, by which symbol-handlers routinely organize discourse, whether verbal or visual” (p. 7). Put differently, it defines which elements of an issue are relevant in public discourse, which problems are amenable to political action, which solutions are viable, and which actors are credible or potentially efficacious. Therefore, as Entman (1993) defines it, to frame is “to select some aspects of a perceived reality and make them more salient in a communication text, in such a way as to promote a particular definition for the item described” (p. 52).

Gamson develops further the concept of the frame as a “central organizing idea or story line that provides meaning” (Gamson & Modigliani, 1989, p. 7). He asserted that an issue has no intrinsic meaning. Instead, meaning is created when it is debated within a social institution like news media. News media become a symbolic arena in which meanings of issues are contested (Gamson & Modigliani, 1989). According to the framing perspective, frames in media discourse work at different hierarchical levels:
“macrostructural,” “microstructural,” and “rhetorical.” Macrostructural framing occurs through placing a particular media event or story in a certain context, thus influencing interpretation of the event or story. Microstructural framing occurs when news media present a particular news event or story from a certain viewpoint or focus as a result of excluding, eliminating, and/or de-emphasizing certain aspects of the event (Gitlin, 1980 as cited in Woo, 1996, p. 68). Rhetorical framing refers to stylistic choices made by reporters, in other words, framing devices such as key words, metaphors, concepts, symbols, and visual images (Gamson & Modigliani, 1989, p. 11).

**Policy framing as a communicative practice**

Since the 1980s, a group of scholars in public policy and international relations has increasingly turned its attention to the concepts of frame and framing to explicate the communicative nature of international rule-making and policy process. According to these scholars, the process of framing is aimed at constructing a policy situation in particular ways, making certain definitions of the situation and policy measures acceptable and desirable. This trend is closely related to the so-called “argumentative turn” in policy research, which opposes the problem solving approach of mainstream objective policy science and emphasizes the communicative and interpretative nature of policy. It claims that the mainstream policy science has failed to provide right prescriptions to policy problems because it separates facts from values and empirical knowledge from normative considerations. By the same token, this argumentative approach criticizes the positivistic nature of policy science and its rationalistic assumption that postulates the objectivity and neutrality of knowledge claims obtained
through a logical objective method (Throgmorton, 1993). Because of its objectivism and scientism, according to this approach, the mainstream policy science ignores the fact that policy process is value-laden and normative.

This group of scholars who direct attention to the role of deliberation and argumentation underscores the collective construction and production of meaning through discursive and communicative practices in policy process. In his introduction to *Evidence, Argument and Persuasion in the Policy Process*, Majone (1989) emphasizes the importance of discourse in policy as he states that:

As politicians know too well but social scientists too often forgot, public policy is made of language. Whether in written or oral form, argument is central in all stages of the policy process… Political parties, the electorate, the legislature, the executive, the courts, the media, interest groups, and independent experts all engage in a continuous process of debate and reciprocal persuasion. (p. 1)

According to Majone, these scholars argue that deliberation and argumentation are an intrinsic part of policy. This means that discursive and communicative practices are essential in the policy process. Since attention is given to the collective production of meaning and interpretation through discursive practices, the discourse becomes the primary object of analysis for these scholars. For them, the most important task is to analyze different examples of discourse that carry definitions of policy problems, policy solutions and programs in order to understand policy-making and policy decision.

According to Richter (1997), the argumentative turn in policy meant the recognition of three closely related issues: (1) the strategic use of narrative, persuasion, and argumentation in the processes of policy formation; (2) the value-laden and linguistic nature of definitions of policy and social problems; and (3) the influence that the voices allowed to participate in policy-formation have on the definition of problems, solutions,
and the assessment of policy. Similarly, recognizing these same three issues, frame analysis addresses the ways that the same policy issues may or may not be defined as problematic, depending on the frame involved, the degree to which the frame implicitly limits or determines the range of possible policy actions, and ways the researchers can mediate between different frames (Richter, 1997, p. 7).

Among those who argue in favor of the argumentative approach to policy, in particular, Donald Schon and Martin Rein have developed a constructivist approach to framing, focusing on the function of framing in the policy-making process. Following the constructivist line, they conceive framing as:

A way of selecting, organizing, interpreting, and making sense of a complex reality so as to provide guideposts for knowing, analyzing, persuading, and acting. A frame is a perspective from which an amorphous, ill-defined problematic situation can be made sense of and acted upon. (Rein & Schon, 1991, p. 263)

They argue that policy problems are constructed “out of the vague and indeterminate reality and things are selected for attention and named in such a way as to fit the frame constructed for the situation” (Schon, 1979, p. 264). The name assigned to a problematic terrain leads us to pay attention to certain elements while neglecting others (Rein & Schon, 1991, p. 270). The process of naming and framing serves to socially construct the policy situation, defines the problems of the situation, and provides a direction for actions to tackle the problems (Rein & Schon, 1993, p. 153). Put differently, these processes allow “the normative leap from data to recommendation, from facts to values, from ‘is’ to ‘ought’” (Schon, 1979, p. 265).

Since frames are not self-interpretative, the interpretation of certain policy problems and situations necessarily requires agents or actors who produce or sponsor
particular frames in the policy process (Rein & Schon, 1991; Finnemore & Sikkink, 1999). These actors may be groups of individuals who tend to share common ideas and beliefs on the policy issues at stake, or they may be formal or informal institutions. While their roles and influences vary with respect to the nature of policy problems or stages of the policy process, in general, they seek to develop the frame, explicate its implications for action, and establish the grounds for arguments about it (Rein & Schon, 1991, p. 275). By the same token, the development of metaphors and rhetorical devices by these actors for communication about the frame is also very important in the process of policy framing.

Recognizing the possibility of multiple realities defined by different social actors and multiple definitions of the same problem, this perspective argues that different frames may lead to the adoption of different policy measures (Jachtenfuchs, 1996, p. 25). Policy controversies thus arise because contending parties hold conflicting frames. In other words, there are unavoidably competition and conflicts between different social and policy actors in defining policy problems and framing the issues, which leads to “frame conflict,” situations where the ends the participants seek may be “incommensurable because they are embedded in conflicting frames that lead us to construct incompatible meanings for the situation” (Schon, 1979, p. 269). Their struggles over the definition of policy problems and thus competition for the control of the policy-making process are “symbolic contests over the social meaning of an issue domain in which meaning implies not only what is at issue but what is to be done” (Rein & Schon, 1994, p. 29).

Frames are grounded in the institutions that sponsor them, and policy controversies arise among institutional actors who hold conflicting frames (Rein &
Schon, 1994, p. 29). In this sense, frame conflicts or competition occur within an institutional context that is the outcome of general frames on social organization. While these institutional structures transport and reproduce a specific, embedded social order, they regulate the ways in which frame conflicts take place. By the same token, institutional structures are affected by the evolution and shift of frames because they reflect frames that are prevailing at the time of their creation and operation. Conflicts between the competing frames within the institutions result in various changes. Sometimes, the conflicts reinforce the dominant frames, marginalizing the alternative ones. Or, they may create a condition leading to shifts in the competing frames, demanding their readjustment or destabilizing the hegemonic order. In this sense, frame conflicts are a political and social process that has to do with power, resources and constraints.

In light of the discussion above, the concepts of frame and framing can be very useful in explicating the process by which international rules and norms are established and evolve. To put it in more detail, they help to demonstrate that the establishment of global rules and norms is in itself a communicative process and is power-laden, by investigating the way that different social actors define policy problems and frame them in such a way as to fit their construction of the world, and by revealing the way that different frames are contested and negotiated. For example, since regulating commercial activities on the Internet has different implications for different countries and different actors within the same country, it may be framed differently, leading to different policy solutions. In this sense, frame analysis would allow the current study to pay attention to the ways the relevant actors frame this issue differently and to focus on how the frame
conflicts are resolved through particular forms of institutional process, revealing power politics between different frame supporters who have asymmetrical capabilities and resources.

**Data Collection Method**

**Selection of organizations**

This dissertation aims to analyze the competing frames produced and sponsored by different actors on the governance of electronic commerce, their emergence, conflict and change within the institutional contexts. Since the main interest of the study is in the process of the development of global rules and norms in electronic commerce governance, international organizations and their policy documents are the major source of data. Electronic commerce concerns a variety of commercial, legal and technical activities. As a result, various kinds of domestic and international actors have stakes in electronic commerce governance. As the creation of global rules and norms for electronic commerce has emerged as an important international policy agenda, various social actors have become actively involved in this rule-making process in the last several years. This inevitably necessitates that the present study exclude many important social actors who have stakes in electronic commerce governance and have been involved in the rule-making process. While it seems unavoidably arbitrary to select certain organizations over other important actors, through a careful examination of activities of these various actors in the rule-making process, the current study selects three intergovernmental organizations, the OECD, UNCTAD, and ITU; two international business organizations, the GBDDe and AGB; and one non-governmental organization, the GILC for data.
The first sources of the data are three intergovernmental organizations: the OECD, UNCTAD and ITU. The rationale for selecting these three intergovernmental organizations is that they have made a major contribution to setting key policy agenda for international discussion and negotiation. These organizations have been the major international forums to discuss electronic commerce-related issues and create international rules and norms in global electronic commerce. While other intergovernmental organizations primarily focus on a specific issue such as the WIPO (intellectual property rights), UNCITRAL (commercial law), ICANN (Domain name system) and WTO (international trade) or are more interested in technical issues such as ISO (standards), these three organizations have addressed various electronic commerce related-issues. In addition to their broad interests in electronic commerce-related issues, these organizations also represent different stakes of various actors, including developed and developing countries and even the private sector. Put differently, these organizations have different institutional backgrounds in terms of membership, historical origin, ideology and the main focus of interest. These differences will enable the study to recognize the existence of different frames, and compare the differences and similarities of the frames in terms of their main features.

As non-state actors have been increasingly invited to engage in global governance, their roles and influences have been widely recognized in the rule-making process. In particular, the involvement of the private sector and non-governmental organizations in establishing global rules and norms for electronic commerce has been prominent. The two international business organizations chosen are the Alliances for Global Business (AGB) and Global Business Dialogue on electronic commerce (GBDe). Given the
increasing power of private interests in the global political economy, it is of no surprise that the private sector is enthusiastically involved in setting the global rules for electronic commerce. The GBDe and AGB are the two international business alliances to most actively represent the interests of the private sector and advocate its views on electronic commerce governance. On the other hand, given the increasing roles and influences of non-governmental organizations in global governance, it seems legitimate that the current study includes the NGO, the Global Internet Liberty Campaign (GILC), for the data. The GILC is the largest international coalition of various types of national and international non-governmental organizations to address public interest concerns in electronic commerce.

**Organization for Economic Cooperation and Development (OECD)**

The Organization for Economic Cooperation and Development has been viewed as a think-tank of the developed countries, and had 29 member countries as of 2000. It provides governments a setting in which to discuss, develop and improve economic and social policy (OECD, 2000). More generally, as described in its Article 1, the objectives of the OECD are: achievement of the highest and soundest possible growth in the economies of the member countries and also of non-member states in the process of development, expansion of employment, raising of living standards, maintenance of financial stability, growth of the world economy, extension of world trade on a multilateral and non-discriminatory basis in accordance with international obligations (Meerhaeghe, 1998, p. 134). Member countries compare experiences, pursue answers to common problems and work to coordinate domestic and international policies. As global economies are rapidly integrating, the OECD has expanded the scope of their activities
beyond the traditional areas of interest and beyond the member countries. In particular, the OECD has brought new trade-related issues to the international discussion and negotiation, making them a key policy agenda. Many times, these issues are discussed and coordinated among the members before they are put forward for international discussion. Recently, the OECD has given its priority of activities to the following issues: aging populations, fighting bribery and corruption, corporate governance, education and training, electronic commerce, macroeconomic policies, regulatory reform, sustainable development, taxation, and trade.

The OECD has been actively involved in setting the policy agenda and has provided an international forum for electronic commerce. There is no doubt that its work has guided international discussion and significantly influenced the actual content of domestic and international policies in electronic commerce. For example, the OECD has set the main objectives of a global framework for electronic commerce as building trust for users and consumers, establishing ground rules for the digital marketplace, enhancing the information infrastructure, and maximizing the benefits of electronic commerce. These objectives are widely accepted in most discussions of electronic commerce at domestic and international institutions. For each of these four objectives, the OECD has convened international meetings and published key documents. Most importantly, it has hosted the Ministerial conferences since 1997 that were major steps for international policy coordination, and it also published the action plan for global electronic commerce.

**United Nations Conference on Trade and Development (UNCTAD)**

The United Nations Conference on Trade and Development was established in 1964 as a permanent intergovernmental body and had 190 member states as of 2000. It
was created by the developing countries as a forum to articulate their trade and economic demands. Its focal points within the United Nations are the integrated treatment of development and interrelated issues in the areas of trade, finance, technical investment and sustainable development. It aims to “maximize the trade, investment and development opportunities of developing countries, and to help them face challenges from globalization and integrate into the world economy, on an equitable basis” (Archer, 1992, p. 142). The UNCTAD focuses research and policy analysis, intergovernmental deliberations, technical cooperation, and interaction with civil society and the private sectors to achieve these goals.

The major activity of UNCTAD in the area of electronic commerce began with its Trade Efficiency Initiative in 1992. It aimed to simplify and harmonize trade procedures for developing countries and provide them with access to information networks and better business practices. The Trade Point Programme, a key element of the Initiative, intends to facilitate access to the latest information technologies for developing countries. By the same token, UNCTAD launched a Global Trade Point Network in 1995 to assist developing countries in their efforts to benefit from developments in electronic communications. GPTNet is increasingly Internet-based and has been designed as a business-to-business tool. With a special grant from the United Nations General Assembly, UNCTAD has increasingly expanded its electronic commerce-related activities, which included a series of workshops and regional meetings on “E-Commerce and Development”. These new activities are conducted under the newly created Electronic Commerce Section of UNCTAD’s Division of Services Infrastructure for
Development and Trade Efficiency. The main focus is the exchange of experiences among enterprises, as well as training (OECD, 1999b).

**International Telecommunication Union (ITU)**

The International Telecommunication Union is a United Nations Agency and the membership includes 189 states and 600 sector members as of 2000. Its main roles as an international regulatory institution have been to oversee and ensure interconnection and interoperability of national systems on a technical and administrative basis through its standards setting activities, recommendations on tariff and accounting rate principles, and support of telecommunication development, particularly in developing countries. With rapid technological development, the work of ITU has become increasingly broader, embracing IP voice, telematics, data, new services, systems and networks.

Electronic commerce is a relatively new area of ITU involvement, due to its focus on telecommunication matters. As telecommunication networks are converted into a multi-purpose platform for electronic commerce transactions, however, the ITU has been increasingly brought to the discussion of electronic commerce-related issues. Since electronic commerce-related issues concern chiefly commercial and legal aspects, the attention of ITU has been paid to the roles of telecommunication regulators in promoting fair competition through ensuring adequate capacity, connectivity, and open access for the development of electronic commerce (ITU, 1998, p. 13). By the same token, the ITU has increasingly emphasized the development aspect of electronic commerce for developing countries. In 1998, the ITU launched a special initiative to assist developing countries in participating in electronic commerce. This initiative, Electronic Commerce for Developing Countries (EC-DC), intends to provide a model that businesses in
developing countries can use to access the global marketplace (Utsumi, 1999). Unlike other international institutions, the ITU has been in the business of telecommunication regulation and development, which have a huge impact on the development of global electronic commerce. This unique experience and position have important ramifications for the discussion of electronic commerce-related issues.

**Alliance for Global Business (AGB)**

The Alliance for Global Business is a coordinating mechanism of leading international business organizations created to provide private sector leadership on information society issues and electronic commerce (AGB, 1999, p. 6). Its membership represents a broad range of business across more than 140 countries and includes providers and users of information technology, large transnational corporations and SMEs (small-medium enterprises), in developing as well as developed countries. Its primary goal is to voice a coherent and unified opinion of the private sector to international organizations and national governments. The AGB is comprised of five founding members, the Business and Industry Advisory Committee to the OECD (BIAC), Global Information Infrastructure Commission (GIIC), International Chamber of Commerce (ICC), International Telecommunications Users Group (INTUG), and World Information Technology and Services Alliance (WITSA).

The Alliance has actively voiced the positions of the private sector to international organizations, in particular the OECD. These positions on electronic commerce-related issues are well described in *The Global Action Plan for Electronic Commerce*, whose initial version was officially submitted to the OECD governments at the 1998 Ministerial Conference on Electronic Commerce. In this document, the AGB calls for minimal
government regulation and the business-led self-regulatory governance of electronic commerce. The Action Plan details the private sector’s view on various electronic commerce-related issues, including privacy, security, intellectual property rights, consumer protection, taxation and market competition. By the same token, the Action Plan includes suggestions for government action and respective roles. In addition to the Action Plan, in 1999, the AGB produced a discussion paper entitled Trade-Related Aspect of Electronic Commerce for discussions with several other international organizations including the WTO, European Union (EU) and the Asia Pacific Economic Co-operation (APEC).

**Global Business Dialogue on electronic commerce (GBDe)**

The Global Business Dialogue on electronic commerce is the private sector effort to develop the principles, rules and norms to create a basis for global public policy on electronic commerce. The organization was formed in January 1999 and is comprised of the CEOs (Chief Executive Officers) and board-members of sixty-two companies from three regions: the Americas, Europe/Africa, and Asia/Oceania. These companies include service providers, high-end services, manufacturing, and media/content. Unlike other international business associations such as TABD (Transatlantic Business Dialogue), the GBDe is unique in that it maintains minimal government involvement and embraces all regions (Berry, 2001). For regional balance, each region has annually appointed two co-chairs and two of those six co-chairs of the three regions take the role of overall co-chairmanship of the organization “based upon the rotation principle and transferring annually within the three regions” (GBDe, 2001).
Since its launch, the GBDe has been actively engaged in the rule-making process for global electronic commerce. In particular, its efforts to advocate the industry perspective on electronic commerce governance have been very notable. The GBDe has initiated constructive dialogue with key national governments, regional organizations and multilateral institutions to develop a global policy framework. These institutions include the ASEAN, APEC, EU, OECD, WTO, and the UNDP (United Nations Development Program) (GBDe, 2001). In addition to publication of policy papers on key electronic commerce issues, it has also organized international meetings to coordinate different stakes and opinions among the industries. The GBDe has invited government and international organization officials to these meetings to promote the industry view on electronic commerce governance. For example, its first conference held in Paris in 1999 brought together more than 470 business and government representatives to introduce GBDe’s policy proposals and to discuss governance of electronic commerce (Cowles, 2001, p. 20). The main focus of GBDe activity has expanded to nine areas which are consumer confidence, convergence, cyber security, digital bridges, e-government, intellectual property rights, Internet payments, taxation, and trade/WTO.

**Global Internet Liberty Campaign (GILC)**

The Global Internet Liberty Campaign is an international coalition of more than sixty civil liberties, and human rights organizations from around the world. Its primary objective is to promote and protect the rights of citizens and consumers on the global Internet, including free speech, privacy, and equality of access through a program of public education and outreach, policy advocacy, dialogues with national and international policy-makers, and coalition building. The main policy issues that GILC focuses on in its
activities are freedom of expression, protection of privacy, cryptography, and access.

GILC was formed at the annual meeting of the Internet Society in Montreal in 1996. The leading initiative in building the coalition was taken by the American Civil Liberties Union (ACLU), Electronic Privacy Information Center (EPIC), and the Center for Democracy and Technology (CDT).

The GILC has worked actively to help the public voice be raised and heard in the development of global rules and norms for the Internet and electronic commerce. These efforts have been particularly notable in the areas of access, free speech, privacy and encryption. The GILC has produced a series of reports and organized several international meetings for non-governmental organizations to address the concerns of the public on these issues since 1996. For example, the 1998 Ottawa conference, *The Public Voice in the Development of Internet Policy*, addressed key public and consumer interests in electronic commerce with respect to consumer protection, free speech on the net, access, privacy and encryption. In particular, the conference statement was accepted by the OECD for its 1998 Ottawa Ministerial conference as an official document (Akdeniz, 1999). The GILC also sponsored another NGO conference in electronic commerce, *The Public Voice in Electronic Commerce* in 1999. This Paris conference brought together participants from over twenty-five countries representing international consumer, labor and civil liberties organizations. The major focus of the conference was given to the issues of consumer protection, privacy, access and development, and the implications of the Internet for the future of work and quality of life.
Data sources

Since this dissertation intends to examine how policy problems in the governance of electronic commerce are framed by various social actors at international discussion and negotiation, it utilizes policy documents of six international organizations as primary data. In this study, policy document is defined broadly, including various types of materials such as policy decisions, recommendations, workshop and conference presentations and proceedings, policy papers and policy statements. A broad definition of policy document may increase the number of data and subsequently burden the researcher with the task of data analysis. However, it seems unlikely that this will happen in this study because electronic commerce began to attract the attention of policy actors less than a decade ago, while most of the international discussions on electronic commerce were held in the last five years. This is the reason why this study specifies the period of analysis as 1997 to 2001. The amount of data thus appears manageable with respect to collection and analysis. The labor of the researcher in data collection and analysis will also be reduced because the number of selected organizations is limited to three intergovernmental organizations, two international business organizations, and one non-governmental organization.

In the present study, data were obtained mainly from web sites of the six international organizations. They are running their own web sites and have a special section for electronic commerce on which most policy documents are uploaded and updated regularly. While most of them are downloadable from the web sites free of charge, some documents are also available in the form of a hard copy or computer file.
through the electronic bookshop. Further, it should be noted that since electronic commerce concerns various commercial, legal and technical activities, it is likely that policy documents on other subjects may also deal with electronic commerce-related issues. Although these documents are generally linked to the electronic commerce section, the study also double-checked these cases by using a search engine. As a result, the data collection process yielded 155 documents, which were then grouped by organization and year of publication.

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*Table 1. Number of Collected Data*
Data Analysis Method

Analytical procedure in frame analysis

Generally speaking, the frame analysis in policy research tends to adopt the qualitative and interpretive approach to identify frames and study a framing process, rather than adopting quantitative methods. This is in part due to the fact that they tend to take the macro-perspective. By the same token, the nature of the data that they are analyzing also frequently encourages this tendency. This clearly contrasts to the frame analysis conducted by communication scholars who tend to prefer quantitative content analysis to examine media framing. A traditional assumption of objectivism in news journalism, along with the vast amount of data used for media framing analysis, leads communications scholars to favor quantitative techniques over an interpretive approach. This is not, however, the case for policy documents and analysts because argumentation and persuasion are intrinsic to policy discourse. Rather than relying on a specific procedure and concrete empirical evidence, therefore, policy scholars prefer theory-based constructions of frames and resourceful readings of discourse and texts (Jachtenfuchs, 1996, p. 46-49).

However, despite substantial benefits, this approach has been criticized even by “insiders” for its methodological vulnerabilities and absence of empirical evidence (Johnston, 1995; Benford, 1997). Criticizing the methodological deficiency of the macro approach, Johnston contends that a text-dependent microanalysis can achieve three methodological ends: reliability, validity and the problem of outright misrepresentation.

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(Johnson, 1995). Benford (1997) also points out that the framing analysis of social movements has suffered from seven problems: neglect of systematic empirical studies, descriptive bias, static tendencies, reification problems, reductionism, elite bias, and monolithic tendencies.

These methodological problems can be significantly minimized by combining different methodologies together in one study. In the case of frame analysis, quantitative content analysis and an interpretive approach can be mutually complementary because each has its own strengths and weaknesses. According to critical realism, qualitative and quantitative research are considered as appropriate for analyzing different types of knowledge. Qualitative research focuses on the nature of the properties of objects, looking for substantial relations of connection and interaction. These relations can be external or contingent, or internal and necessary, so that the existence of one necessarily presupposes the other. Thus qualitative research looks at processes, human actions, and possibilities for change existent in a particular event or a limited number of cases (Sayer, 1992). This tends to result in problems in reliability and validity.

On the other hand, quantitative research is considered practically adequate when the nature of the object of study is not altered by changes in time, place or conditions. It focuses on empirical regularities, patterns and particular characteristics of events. Rather than depth of analysis, it is interested in breadth, on how widely spread certain processes present in the analyzed population are. Its results tend to be taxonomically collected, according to similarities and differences in external attributes. Quantitative research is strong in reliability and validity and can provide correlations and generalization of results. Even if qualitative and quantitative research and their methods are quite different, realism
conceives both types of research as complementary and “needed in concrete research” (Sayer, 1992, p. 250). This concerns what Denzin calls methodological triangulation. Denzin (1970) argues that employing multiple methods in the study helps to overcome the inherent biases or weaknesses of a single method.

**Identification of frame features and development of coding categories**

Informed by the usefulness of multiple methods in the same study, this dissertation utilized both quantitative content analysis and an interpretive approach for data analysis. The empirical analysis proceeded in two stages, which employed the two different methods. Using the interpretive method, first, this dissertation took an inductive approach that involved analyzing various policy discourses on the governance of electronic commerce with an open view to attempt to reveal the array of possible frames, beginning with very loosely defined preconceptions of these frames (Gamson, 1992; Gamson & Modigliani, 1989). By in-depth examination of the selected policy documents and other supporting materials such as media reports and scholarly articles, the researcher looked for possible working frames and identified their features. The six constitutive elements of the frames were identified: (1) problem definition, (2) objectives, (3) principles, (4) types of intervention and policy instruments, (5) primary actors and their roles, and (6) key metaphors and other rhetorical devices. This process also allowed the researcher to develop categories for each feature of the frames.

**Content analysis of the policy documents**

The second stage involved the content analysis of the collected policy documents. This was deductive in nature because it utilized the pre-identified features of working frames and coding categories, and then classified the data into these categories in order to
verify the extent to which a particular category appeared in the policy documents. This content analysis actually intended to provide the answers to the research questions that this dissertation posed.
CHAPTER 4

DEVELOPMENT OF GLOBAL ELECTRONIC COMMERCE:
ITS ORIGIN, KEY ISSUES AND PLAYERS

Introduction

This chapter intends to lay a contextual background for the current study. A definition of electronic commerce is provided in the first section. The historical development of global electronic commerce is also briefly reviewed in this part. In the following section, the researcher examines major policy issues involved in the governance of global electronic commerce. To accomplish this, among the many electronic commerce-related policy issues, thirteen issues were selected and grouped into three categories as follows: (1) Access (access to infrastructure, access to content, universal access/digital divide, Internet names and numbers); (2) Trust (privacy, security, consumer protection, content regulation); and (3) Ground Rules (taxation, intellectual property rights, international trade, commercial law, standards). Finally, the chapter identifies key social actors who have been actively involved in establishing global norms and rules in electronic commerce. A brief discussion of who they are and what they have done in these key areas of policy is offered.
Electronic Commerce: A General Overview

Electronic commerce applications were first developed in the early 1970s when the financial community began using transactions involving electronic fund transfer (EFT), which was limited to large corporations and financial institutions (Kalakota & Whinston, 1997 as cited in Albarran, 2000, p. 75). Another early form of electronic commerce was the electronic data interchange (EDI) over private or value-added networks that were leased from telephone lines, which was used by the firms to integrate the value-added chain, including suppliers of raw materials and final consumers. Electronic Data Interchange expanded electronic commerce “from financial transactions to other types of transaction processing, thus enlarging the pool of participating companies from financial institutions to manufacturers, retailers, services, and many other types of businesses” (Turban, King, Lee, Warkentin & Chung, 2002, p. 14). Due to its high costs, however, many firms preferred fax, mail or telephone to this old form of the EDI. Adoption of the Internet protocol and infrastructure was considered as a solution to this problem because the EDI over the Internet requires only one-tenth of that of value-added networks.

More new electronic commerce applications such as stock trading and travel reservation systems developed, following the EFT and EDI (Turban et. al., 2002, p. 14). Although the value of the early forms of electronic commerce applications was widely recognized, however, it is the development of the Internet and its application such as the World Wide Web that has brought new dimensions to the existing forms of electronic commerce in scope and scale. While the Internet and its applications allow the
construction of a very efficient and cost-effective system for electronic transactions between firms, with commercialization of the Internet and increase of business sites on the web, the number of consumers using the Internet for buying goods and services has grown very rapidly, resulting in explosive growth of business-to-consumer electronic commerce.

As the new form of economic transaction over the advanced information and communication network has captured the attention of businesses, policy-makers, regulators, and academics for its potential as a possibly dominant way of conducting commercial activities in the coming informational economy, many attempts have been made to grasp the essence of electronic commerce by defining it in various ways. For example, paying great attention to the qualitative changes the Internet has brought to the way commercial transactions are made electronically, some define electronic commerce specifically as the buying and selling of goods and services via the Internet (Bidgoli, 2002, p. 5). Similarly but more narrowly, those who are impressed by the rapid growth of business-to-consumer transactions on the Internet define electronic commerce as retail sales to consumers for which the transaction and payment take place on open networks like the Internet. Although electronic retailing via the Internet has made a crucial contribution to drawing public attention to electronic commerce, this narrow definition tends to limit the potential of electronic commerce and its much broader economic implications. As various statistical data demonstrate, the reality is that electronic commerce between firms is much bigger than electronic retailing in terms of revenue and transaction size. By the same token, this definition tends to ignore the fact that firms have adopted electronic commerce through value added networks.
As a result, electronic commerce tends to be broadly defined in most policy documents and discussions. According to these broad definitions, electronic commerce is viewed to embrace all commercial and economic transactions that take place electronically, including electronic data interchange (EDI) and electronic funds transfer (EFT). For example, in one OECD document, electronic commerce is defined as “all forms of transactions relating to commercial activities, including both organizations and individuals, that are based on the processing and transmission of digitized data, including text, sound, and visual images” (OECD, 1997a). According to this view, electronic commerce is not a new concept. Rather, it has existed for decades. Considering both its historical development and the impact the Internet has on existing electronic transactions in scope and scale, for the current study, the researcher employs a definition of electronic commerce developed by Hawkins, Mansell & Steinmueller (2000). According to them, electronic commerce refers to “the application of information and communication technologies to one or more of three basic activities related to commercial transactions: (1) production and support, that is, sustaining production, distribution, and maintenance chains for traded goods and services; (2) transaction preparation, that is, getting product information into the market-place and bringing buyers and sellers into contract with each other; and (3) transaction completion, that is, concluding transactions, transferring payments, and securing financial services” (Hawkins, Mansell & Steinmueller, 2000, p. 204).

While electronic commerce may be classified in various ways, most commonly it is categorized in terms of the parties who are transacting because any form of commerce requires that at least two participants be involved. Depending on the types of the
participants, electronic commerce can be categorized into many types, such as electronic commerce between businesses (B2B), consumer-centered electronic commerce (B2C), electronic commerce between business and government (B2G), transactions between consumers or people (C2C or P2P), and electronic transactions within the organization (Intra-business). In addition, as the cases of priceline.com and travelbid.com show, consumer-to-business (C2B) electronic commerce has been popular recently. All of these types of electronic commerce have grown rapidly though in varying degree. Nonetheless, the two most popular and important types of electronic commerce are business-to-business electronic commerce and business-to-consumer electronic commerce.

While business-to-consumer electronic commerce has received much publicity over the last few years due to the rapid development of the Internet and diffusion of the personal computer, business-to-business electronic commerce clearly represents a much bigger portion of total electronic transactions. Furthermore, the business market has much greater potential in the near future, especially as far as international trade is concerned. An example of business-to-business electronic commerce would be a firm that uses a network for ordering from its suppliers, receiving invoices and making payments. In addition to the existing form of the EDI, there are three other types of business-to-business electronic commerce. First, businesses use the Internet, WWW pages and browsers. Second, businesses streamline their internal business functions by deploying intranets. Finally, businesses extend their intranets beyond to extranets which are intended to choose business partners. Businesses tend to adopt electronic commerce for three reasons. First, electronic commerce will lead to a reduction of transaction costs and improvement of product quality/customer service. Second, competition forces businesses
to adopt electronic commerce. A company may be pressured to engage in this type of commercial activity simply because its competitors do so. Finally, a company may be required to be linked to large firms’ networks of suppliers as a condition of doing business with them. Among these factors, the first actually leads to business-wide adoption of electronic commerce.

One the other hand, business-to-consumer electronic commerce equates to electronic retailing which is a subset of electronic trading. This type of electronic commerce is given the most attention by the media and has expanded greatly with the development of the Internet and Web applications. Although tangible goods such as books, computers and clothing are most often mentioned as popular business-to-consumer electronic commerce products, intangible goods and services may be a larger segment of this type of electronic commerce than computers. Examples of intangible goods and services would be entertainment, travel, financial services and software.

Despite its rapid expansion, much of the business-to-consumer electronic commerce is still an extension of traditional merchant stores and chains, rather than a pure form of electronic retailing such as Amazon.com. The main drivers of business-to-consumer electronic commerce appear to be a little different. With the rapid expansion of advanced information and communication infrastructure and diffusion of the personal computer, the development of the Internet protocol and the World Wide Web has led to a huge growth in the business-to-consumer electronic commerce market. Once access is ensured, other factors would promote the use of electronic commerce in retailing. Among the benefits that electronic transactions give consumers, convenience is a very important merit for them. It significantly minimizes the constraints of space and time imposed on
consumers when they buy goods and services. Moreover, electronic commerce allows consumers to purchase customized and personalized products by forming a one-to-one relationship with the merchant.

**Key Issues in Global Electronic Commerce**

As electronic commerce has increasingly emerged as an important means of business and trade, this new type of commercial transaction has posed various challenges to national policy makers and legislators as regards its governance. Furthermore, its born-global nature has created various jurisdictional issues, raising controversies over who should have authority to decide the issues as well as how they should be handled. A further complication is that, as a real convergent medium, its technological base has resulted in conflicts of different interests among stakeholders, which was not the case before and may not still have been the case unless the technology was developed. Due to these factors, electronic commerce and its governance are involved in various policy issues.

In the past years, we have witnessed that numerous policy issues have emerged and been discussed by various actors at international meetings to establish electronic commerce governance. By carefully reviewing the issues addressed in international discussions, this study has selected thirteen of them as key policy issues related to electronic commerce and its governance. These thirteen issues have then been grouped into three categories, namely access, trust and ground rules. Access issues include access to infrastructure, access to content, universal access and Internet names and numbers. Trust-related issues are privacy, security, consumer protection and content regulation.
Lastly, taxation, intellectual property rights, commercial laws, international trade and standards are categorized as ground rules-related issues. This section provides a general description of these issues and identifies main problems related to each issue.

**Access**

Four main access-related issues to be addressed include access to infrastructure, access to content, universal access and Internet names and numbers. These four types of access are the most fundamental and basic conditions for both businesses and consumers to adopt and use electronic commerce. Moreover, if electronic commerce is to spread into the population within a country as well as globally, these four access-related issues and their associated problems must be addressed and resolved in a timely manner at the domestic and international levels.

**Access to infrastructure**

In order to conduct commercial transactions over the Internet, consumers and businesses must first have access to telecommunications networks and services, including backbone networks and access to local loops, as well as interconnection among those elements. Once connection to the networks and services is ensured, in turn, their capacities and quality become important for the users. It is thus of critical importance for electronic commerce to ensure that this access be available. Historically, telecommunication networks and access to them were under the control of national or private monopolies. Even though, with the worldwide deregulation and liberalization of telecommunications, the most egregious exercises of market power based on monopoly control of access to networks have been significantly reduced or eliminated, continued
regulatory oversight of these critical elements by which electronic commerce services are offered will be necessary in order to prevent the extension of market power.

In many countries, national operators have built the Internet backbone networks by which domestic Internet Service Providers and end-users connect to the global Internet. This type of monopoly control, in particular over high-end transmission services may lead to the restriction of the availability of adequate connectivity (Townsend, 1998, p. 30). Excessive market power in the hands of national or private operators or anti-competitive cross-subsidies to other business, resulting in pricing policies that maintain above-cost prices for the backbone services should be monitored and regulated in order that they not result in higher costs for ISPs and other electronic commerce service users, and hence for end users (ITU, 1998, p. 19). While regulators should play a key role in ensuring that these backbone networks are available wherever connectivity is required, they also need to pay attention to the reliability, quality and security of these networks.

Despite increasing new technological options, the local loop is still the major bottleneck facility, which connects the vast majority of end users to the global Internet. Incumbent operators have significant market power due to their near universal access to end users. Since control of the local loop generates huge revenues and a high level of retail market control for the incumbent operators, they are unwilling to give up its control (Fischer & Lorenz, 2000, p. 68). As Samarajiva (2000) points out, the U.S. and the EU thus include in their new Telecommunications Act and Interconnection Directives provisions that are designed to restrict the extension of market power by controlling these bottleneck facilities that may be used to support competitive provision (p. 5). Unbundling can be used to dismantle the bottleneck control of the incumbents. In the
context of electronic commerce, unbundling may apply to access to signaling, network intelligence, routing databases, and other important information that might by controlled by the incumbents, as well as technical network elements (ITU, 1998, p. 21).

In addition, since interconnection is seen as the cornerstone of competition in telecommunications, it can also create anti-competitive incentives for the incumbents, resulting in another form of bottleneck control. Regulatory oversight of prices, terms and conditions, and technical standards for interconnection is thus of significance to the development of electronic commerce. For example, the EU businesses complain that traffic exchange between ISPs through public exchange points does not permit guarantees of quality in performance (Fischer & Lorenz, 2000, p. 71). The interconnection issue raises new policy/regulatory questions with respect to electronic commerce. These questions include: how a subsidy element, if included in interconnection charges, would apply to the ISPs; when telephone operators become ISPs, how emerging issues such as competitive balance, co-location of facilities, unbundling, access to proprietary network intelligence and data should be handled; and how common cost sharing methodologies should be modified to reflect increasing usage of data over the voice-oriented exchange network (ITU, 1998, p. 22).

Access to content

While access to infrastructure is a necessary condition for business to adopt and participate in electronic commerce, various types of content transmitted over this infrastructure are also critical elements for the success of business. With the increasing economic values of cultural products and services to both the national and global economies, the development of competitive content has become not only a key strategy
for business success in the market but also a primary goal of national industrial policy in
most countries. In particular, the development and production of content has a huge
implication for developing and less developed countries because experience shows that
access does not guarantee the production and availability of local or indigenous content.
Their lack of capacity to produce competitive content in the global market will not only
reinforce their traditional status as a primary importer of cultural contents but also worsen
the existing asymmetric flow of trade in global electronic commerce. This will
significantly hamper the rapid diffusion of electronic commerce in these countries as
well.

Recognizing the existing disparity in capacity to produce content among
countries, international discussions have emphasized that developing countries need to
develop and produce local or indigenous content for economic success and development.
For example, the G-8 countries gave great weight to cultural diversity in the Okinawa
meeting held in 2000 and the World Conference on Science held in Budapest in 1999
underscored “the need to recognize and respect the importance of diversity in linguistic
and creative expression” (Mansell, 2001, p. 7). In this sense, the creation and production
of local or indigenous contents also have a broad implication for the development of
global electronic commerce. While the development of various local or indigenous
contents will enhance the competitiveness of developing countries in the domestic as well
as the global market, it will also encourage the participation of both domestic firms and
consumers in electronic commerce in which English is the primarily used language and
the contents of transnational corporations are overwhelmingly dominant.
Despite its common relevance to both the developed and developing countries, the issue of content production and development has more significant implications for developing countries due to their lack of capacity in creating and producing local or indigenous contents. Addressing economic, technical, infrastructural, and political barriers to content development in Africa, the Economic Commission for Africa (ECA) proposed a national and regional strategy for content development in the meeting of the Committee on Development Information, Addis Ababa, Ethiopia, 1999. According to the ECA report, for content development in Africa, the following needs should be met: (1) the need to democratize access, to improve the infrastructure and to create conditions for communities to participate in the development of content; (2) the need for human resources development in community content generation, packaging and transmission; (3) the need for information management because information should be continuously gathered and produced in digital multimedia formats; and (4) the need to create enabling regulatory, legal and policy frameworks to protect security, privacy and intellectual property rights (1999, p. 9-11).

**Universal access**

Connectivity to telecommunications networks is the prerequisite for using the Internet and electronic commerce. With the increasing importance of information and communication technologies in the economy and our everyday lives, universal availability of various communication services, including basic telephone service, is regarded as a principal policy objective in even a competitive market environment. In particular, as the Internet has become a chief means of communication and commerce, access to advanced communication technologies such as the Internet has been a central
issue to be addressed in national as well as international discussions. Although there have been heated debates on whether Internet access should be included in the universal service/access category, a consensus has not yet been formed at the national or international levels because most regions in the world are still struggling with the low basic telephone penetration rate (Cawley, 2000).

Reflecting the importance of the universal service/access issue, the term, “digital divide” has recently emerged as one of the most important policy issues in relation to the Internet and electronic commerce. There have been various efforts to grasp the essence of the digital divide by defining the term abstractly as well as empirically. For example, the OECD defines the digital divide as “the gap between individuals, households, businesses and geographic areas at different socio-economic levels with regard both to their opportunities to access information and communication technologies and to their use of the Internet for a wide variety of activities” (OECD, 2001a, p. 5). Despite the increasing importance of and the need for access to advanced communication technologies and services, the reality shows that there is a huge gap between countries in terms of availability of these technologies and services and more significantly, the capabilities to use them. Moreover, this gap does not exist only between developed and poor countries. Even in developed countries with high telephone penetration and Internet access, significant disparity exists between the urban and rural areas. This asymmetric development has captured the attention of national and international policy-makers in the past several years. For example, public access to the Internet through libraries and schools is the US government’s policy response to this problem.
In modern usage, universal service has come to mean ubiquitous geographical coverage, universal household penetration and proactive government subsidies to achieve these goals. The common carrier law in telecommunications guaranteed access to the means of communication, based on an ideal of equity that implied non-discriminatory availability (Horwitz, 1989). Historically, national or private monopolies in telecommunications were legitimized by a rationale based on the provision of universal service. However, as Samarajiva (2000) points out, monopoly provisions have proved a failure in providing universal connectivity to communications networks (p. 6). Instead, increased participation of private capital and competition-based policies have been much better in achieving universal service goals as demonstrated in many countries (Petrazzini, 1997, p. 358). However, there is concern that competition alone will not achieve this objective so that continued regulatory intervention is necessary since high-cost and low-income areas may not be served at all or at the same rate. Nonetheless, market-based universal service/access schemes will be increasingly employed to induce firms to provide services in the unserved areas. An important principle for regulators is thus to ensure that the regulatory mechanism does not harm market competition, and that the universal service/access subsidy scheme should be competitively neutral (Samarajiva, 1999).

There are three main policy issues as related to universal service/access: (1) who should pay into the universal fund; (2) what services should be included in the universal access package; and (3) who will be eligible to receive the benefits of universal access policies. (See the chapters written by Hudson, Garnham, Petrazzini, and Melody on universal service in Melody (1997)). Convergence and the rapid diffusion of the Internet
are making these issues more complicated. For example, in the U.S., the introduction of voice telephony over the Internet is undermining a consensus formed among telephone companies, state and federal governments as to who should contribute to, and who should be entitled to draw from, the universal service fund (Romero, 2000 as cited in Samarajiva, 2000, p. 7). In addition, there is a controversy on whether ISPs should pay into the universal service fund. On the other hand, Internet technology is regarded as an alternative solution in building new networks, providing a better option for developing countries than old-type circuit switch networks (Samarajiva, 2000, p. 8). For this, legal and regulatory adjustment is necessary. In sum, while government oversight to ensure universal service/access will continue to exist in a less excessive and intrusive way, market forces and technological development will play more important roles in expanding connectivity to telecommunications networks, including basic and advanced services.

**Internet names and numbers**

In order for them to communicate with each other over the network, there has to be some mechanism enabling a computer terminal to locate another. One way that Internet engineers developed to deal with the need of locating computers was to assign an Internet Protocol (IP) to each host computer connected to the Internet (Weinberg, 2000, p. 194). Since the IP address consisted of a unique 32-bit number and was difficult to remember when the user wanted to locate a particular computer, a more user-friendly mechanism needed to be developed. The domain name system (DNS) is the most successful system that has been developed to deal with this problem. It is a user-friendly system to map the Internet by assigning an easy-to-remember name to each IP address.
Internet domain names are “alphanumeric names which substitute the numeric IP addresses of computers which are necessary to identify and contact a computer on the Internet” (Bubert & Buening, 2000, p. 3). When a user uses a domain name to locate a particular Internet site, it is translated into an IP address by a series of computers known as domain name servers (Grewlich, 1999, p. 195).

The domain name has a unique hierarchical structure, which is divided into the top level domain (TLD) at the very right of the domain name and second level domain (SLD). There may also be a third or fourth level domain if applicable. Top level domains are either three letter generic ones (gTLD) or could be the ISO two-letter country codes (ccTLD) such as kr, jp, ca. When the domain names were introduced, there were seven generic top level domains which were .com for commercial users, .org for non-profit organizations, .edu for higher education organizations, .mil for the US military organizations, .net for network service providers, .int for international treaty organizations, and .gov for the US governmental organizations. Two of these generic TLDs, .mil and .gov have been limited to use only by the United States. There have been heated debates on whether generic TLDs should be added. In November 2000, the Internet Corporation for Assigned Names and Numbers (ICANN) that overtook domain name system management from Network Solutions, Inc. (NSI), approved the seven new generic TLDs that are: .biz, .info, .pro, .museum, .aero, .coop and .name (Hiller & Cohen, 2002, p. 8). On the other hand, the second level domain can be chosen by the applicant under the top level domain.

As the Internet has developed, domain names have gained a major importance and economic value, which has led various stakeholders to pay a great deal of attention to the
issues of the domain name system. In the past several years, we have witnessed that domain names-related issues have emerged as an important policy problem in international discussions. Although many issues have arisen as regards domain names, two issues have been prominent in international discussions. The first key issue concerns the management of domain names. In particular, the ICANN has been at the center of the debates on domain name management. Originally, the domain name system was managed and controlled by the US government through contracts to nongovernmental entities such as NSI (Hiller & Cohen, 2002, p. 7). Led by the US government, however, the ICANN was established as a private corporation as a result of negotiation among IANA/ISOC (The Internet Society), NSI, and other Internet stakeholders. It took over the domain name and address administration from the Internet Assigned Numbers Authority (IANA) (Franda, 2001, p. 54). Its primary responsibilities include IP address space allocation, protocol parameter assignment, domain name system management, and root server system management.

From its creation, however, the ICANN has faced constant criticism from key people and groups in various Internet communities for its lack of legitimacy and accountability. They have leveled the criticism against the ICANN that “it has reneged on its promise to build an open, at-large membership and democratic processes of decision-making (Franda, 2001, p. 55). As Gould (2000) points out, concerns have been raised about “the composition of the interim board; the fact that trademark and other commercial interests are too dominant; the influence of the governments on ICANN’s works; and, generally, the fact that it appears that political considerations may outweigh technical issues in the decisions ICANN makes” (p. 208). The ICANN has addressed
issues including “how many top level domain names should exist, to whom they should be allocated, what the economic structure of registration in those domain names should be, what content controls should be imposed on registrants in those domains, what special rights trademark owners should have, and what privacy claims domain name registrants should be able to assert” (Weinberg, 2000, p. 257). In order to establish legitimacy and accountability for its decision-making in these issues, the ICANN needs to answer the charges from critics.

Locating a particular Internet site, domain names also function as a means of identifying and distinguishing business. As the concept of a domain name has transformed from a mere address indication to an identifier of a certain business entity, and its goods and services, the domain name acquires the features of a trademark, trade name, or brand. While two identical domain names cannot in principle coexist at the same level domain, they may be used at different levels, under different top level domains or in different jurisdictions (Gould, 2000, p. 196). The conflicts thus arise when different parties want to use the same domain name either at the same or different domain levels. As domain name registration oftentimes corresponds to the character strings of registered trademarks, trademark owners have complained that this infringes on their trademarks (Mueller, 1998, p. 5). In particular, the system of domain name registration, “first come, first served”, worsens the situation as anybody who registers first can claim ownership of the well-known names that may be protected by trademarks. This person may register these names in bad faith, hoping to sell the domain names later to the owners of those trademarks or take unfair advantage of the reputation attached to the trademarks, which is called “cybersquatting” (Froomkin, 2000). In these cases, disputes
may arise between domain names and trademarks, which are not easy to resolve because the Internet domain names are global whereas trademarks are territorially based. Therefore, it needs to be clarified what kinds of practices constitute infringement of trademarks in relation to domain names, as well as how and to what extent trademarks should be protected against domain names. Given the born global nature of the Internet, an internationally applicable solution needs to be developed. In addition, when disputes arise, how these should be resolved is also another key issue to be addressed. In order to meet this need, the ICANN created the Uniform Domain Name Dispute Resolution Policy (UDRP) in 1999.

**Trust**

Any type of commercial transaction presupposes trust between the transacting parties and transaction system. In this sense, Arrow (1975) claims that “virtually every commercial transaction has within itself an element of trust, certainly any transaction conducted over a period of time” (p. 24 as cited in Samarajiva, 1997, p. 282). However, trust has more fundamental social dimensions beyond the scope of commercial relationships. Sociologists view trust as an essential social construct in social interactions and relationships. It is essential for society to function in an orderly manner (Barber, 1993). Trust also allows individuals to effectively function in a complex social system by reducing uncertainty and complexity (Luhmann, 1979). Goffman (1963) maintains that trust is a rational strategic mechanism by which individuals can deal with each other in social interactions. In this sense, trust is a critical feature in maintaining social
relationships and for the functioning of social order. It is built on past experience and carried over to expectations of the future (Liu, 1996, p. 48).

We need trust when we are engaged in a relationship or interaction with unknown objects or people. Lack of knowledge of those objects and people requires us to take risks in the relationship or interaction (Luhmann, 1979). For Giddens, however, trust is bound up with contingencies rather than risk although he does not dismiss the relationship between trust and risk. Since trusting behavior always carries reliability of possible contingent outcomes, a sense of reliability and consistency of things is essential to the notion of trust (Liu, 1996, p. 49). Giddens therefore defines trust as “confidence in the reliability of a person or system, regarding a given set of outcomes or events, where that confidence expresses a faith in the probity or love of another, or in the correctness of abstract principles” (Giddens, 1990, p. 34).

Given that trust is an essential social mechanism in the establishment and maintenance of lasting, constructive relationships, it also appears to be critical in electronic commerce where trading parties enter the transaction without prior knowledge of each other or physical co-presence in a certain space and time. Any form of electronic commerce will thus never be successful unless the trading partners trust each other and the system itself in which the transaction is made. It is believed that privacy is a precondition for trust (Samarajiva, 1997, p. 284). By the same token, the security issue directly relates to trust because it concerns not only information confidentiality and commercial transaction but also privacy with respect to data surveillance by government. Consumers must be confident that they will be protected in the electronic marketplace as much as they are in the real marketplace. The expression issue can either harm or
enhance consumer trust in electronic commerce as well. Therefore, one of the most important tasks for policy-makers and regulators in dealing with these new issues is to ensure that a trust-conducive environment for electronic commerce be created and retained.

Privacy

The increase of electronically mediated transactions over the information and communication network raises regulatory concerns on the collection, storing and manipulation of personal information without consent or even knowledge of consumers. Personal databases of consumer information obtained via transaction-generated information (TGI) can be used to tailor marketing strategy to suit the individual consumer. Furthermore, without the consent or knowledge of consumers, those databases may be shared with or sold to others to whom the consumers have not chosen to give their personal information. Since privacy is not only of significance to the human condition of living but critical to establish trust of consumers in electronic commerce itself, the protection of privacy has emerged as one of the most important policy issues among policy-makers, businesses and consumers. A more complicated problem as to regulating privacy in electronic commerce is however that the growth of electronic commerce is inevitably related with and relies on the collection, storing and manipulation of personal information obtained by involuntary consumer surveillance. The regulatory task is thus to balance these conflicting interests of users and consumers of electronic commerce.

In the area of privacy protection, different approaches have been sought, which include legislative, regulatory, self-regulatory and technological solutions. While the U.S.
has consistently favored a self-regulatory approach as the best solution for privacy protection regarding electronic commerce, the EU has advocated specific government intervention for data protection through legislation/regulation. The protection of privacy regarding information and data in the United States is disjointed, inconsistent, and limited by conflicting interests. There is no explicit constitutional guarantee of a right to data/information-related privacy in the United States (Cate, 1997, p. 98).

In the “Framework,” the U.S. government supports “private sector efforts to implement meaningful, consumer-friendly, self-regulatory privacy regimes, which include mechanisms for facilitating awareness and the exercise of choice online, evaluating private sector adoption of and adherence to fair information practices, and dispute resolution” (Clinton & Gore, 1997, p. 13). Moreover, the U.S. government has advocated an idea of the privacy-enhancing technological solutions/self-help scheme, which may be used to complement either self-regulatory or legislative/regulatory approach. The biggest concern of the U.S. regarding privacy matters is the possibility of stringent regulation disrupting transborder data flow as illustrated in the debates between the U.S. and the EU on the EU Data Protection Directive.

In contrast, the EU has adopted a regulatory/legislative approach that requires government intervention to protect privacy. According to the EU Directive on the Protection of Personal Data (1995), the member states are required to enact laws governing the processing of personal data. Here, “processing” is broadly defined as “any operation or set of operations, whether or not automated” while “personal data” refers to “any information relating to an identified or identifiable natural person” (EU, 1995). National laws enacted in compliance with the Directive must ensure that processing of
personal data is accurate, up-to-date, relevant, and not excessive (Grewlich, 1999, p. 283). According to Cate (1997), the Directive and these national laws stipulate that:

Personal data may be used only for legitimate purposes for which they were collected and kept in a form that does not permit identification of individuals longer than is necessary for that purpose. Personal data may be processed only with the consent of the data subject, when legally required, or to protect public interest or the legitimate interests of a privacy party, except when those interests are trumped by the interests of the data subject. The processing of data revealing racial or ethnic origin, political opinions, religious beliefs, philosophical or ethical persuasion or concerning health or sexual life is severely restricted and in most cases forbidden without the written permission of the data subject. (p. 37)

As demonstrated in the above quote, the EU has the most comprehensive protection for privacy in the world, which reflects a basic idea of the EU that privacy is a fundamental human right.

The EU’s stringent regulation of data protection has been met with reluctance by some countries, in particular, the U.S. The EU Directive bars the transfer of personal data to countries that do not provide “adequate” protection of privacy to EU citizens. The U.S. argues that it is not clear what “adequate” means. It also claims that the EU Directive badly affects trans-border data flow between the EU and non-EU countries, triggering trade conflicts. In a sense, this complaint makes sense because when the EU requires other countries to comply with its rules, it may be seen as trying to impose its standards on others (Swindells & Henderson, 1999, p. 11). This may in turn deter international cooperation to establish a common framework to protect privacy in electronic commerce, which also delays the growth of electronic commerce at the global level. In order to overcome this problem, the OECD has played a leading role in providing a forum for international discussion to produce practical guidelines for
protection of privacy based on national experiences and examples. However, the limitation of the OECD guidelines is that these guidelines are just recommendations and not enforceable unlike the EU Directive.

It seems a very popular idea right now that self-regulation is a better option than government regulation to protect privacy. Sectoral codes of practices provide the opportunity to tailor codes to particular industries and services (Grewlich, 1999, p. 279). Nonetheless, this approach has its own limitations. Above all, the current development of converging communications sectors is blurring conventional conceptions or boundaries, making the identification of sectors or industries problematic (Rabb, 1997, p. 169). Some oppose the idea of private sector-led self-regulation because it places too much of the burden on industry to solve the legal and policy issues raised by electronic commerce and fails to recognize individual users of electronic commerce as independent stakeholders in a larger self-regulatory regime (Love, 1999, p. 19). Therefore, they argue that governments must remain the ultimate guarantors of the rights of citizens and not abdicate their responsibilities in the protection of privacy and consumer interests (Love, 1999, p. 18).

Possibly due to the problems with legislation/government regulation and private self-regulation, technological solutions may be regarded as a good alternative to protect privacy. These technological solutions, involving cryptographic methods, aim at allowing users to make informed decisions about the collection, use and disclosure of personal information during interactions over the networks. Privacy-enhancing technologies (PETs) refer to “technical and organizational concepts that aim at protecting personal identity and seek to eliminate the use of personal data altogether or to give direct control
over revelation of personal information to the person concerned” (Burkert, 1997, p. 125). However, as Rabb (1997) points out, technological solutions cannot address all the problems of privacy protection in electronic commerce since it requires more than physical security, authentication and the authorization of access that PETs can handle (p. 69). So, Grewlich (1999) suggests that privacy be understood as a design philosophy and that privacy protection must be incorporated proactively into a system at an early stage (p. 279). More importantly, technological solutions must be regarded as a complementary mechanism to regulatory or self-regulatory approaches, rather than a magic solution that can handle all the privacy problems.

In light of the discussion above, there seems unlikely to be one best solution to protect privacy in electronic commerce. Moreover, given that the Internet is inherently global and technology is changing too rapidly for regulators and businesses to cope with via legislation and sectoral codes of conduct, it will become more and more difficult to determine which policy instruments will work the best to protect privacy in global electronic commerce. As Agre argues, therefore, policy-makers need to employ the appropriate means of privacy protection from what Cavoukian and Tapscott (1997, p. 197-198) have called a “mosaic of solutions” (1997, p. 25). Agre (1997) lists seven policy instruments available for the protection of privacy as follows: privacy rules administered by a data-protection commissioner; encouraging or requiring the use of privacy-enhancing technologies such as digital cash; protocols for individualized negotiation of personal data handling; outlawing certain technologies altogether, or limiting their use; sectoral codes of practice; establishing a broader legal basis for torts of privacy invasion; privacy-protection standards; and “bottom-up” education and training
among system developers, employees with data-handling responsibilities, and the general public (p. 23-25).

Security

The full potential of electronic commerce over the networks will not be achieved until the infrastructure is capable of providing the same levels of trust found in traditional commercial transactions. This will occur only if consumers and users are confident of the security of transmitted information. Confidentiality, authentication and integrity of information are among the prime security concerns in electronic commerce over the information and communication networks. Confidentiality refers to the protection of information from being disclosed to unauthorized individuals, entities or processes. Authentication means the verification of the stated source of the information and the validity of the message. Lastly, integrity refers to the genuineness of information. In this sense, electronic commerce security can be defined as “a protection of an information resource from the threats and risks in the confidentiality, authenticity and integrity of the electronic transactions transmitted via a network” (Ratnasingham, 1998, p. 314).

With rapid increase of amount and scope of transaction information via the open network that raises concerns over fraud and misuse of transaction data involving credit cards, as a mechanism to ensure security of information, a reliable and strong cryptographic method has been increasingly requested. Moreover, malicious database hacking increases the need of strong encryption technology among businesses. Encryption is a process for protecting information by scrambling the contents to make it difficult and time consuming for an unauthorized recipient to unscramble and view the information (Mann & Gahtan, 1998, p. 21). Put simply, it renders electronic information
unreadable, thereby guaranteeing confidentiality of the information. Its applications include protecting files from theft or unauthorized access, keeping communications secure from interception, and enabling secure transactions (Townsend, 1998, p. 64). Encryption can also serve to protect the integrity of a transaction to ensure that the information is not altered during its transmission.

While encryption is regarded as the most important application to ensure the security of electronic transactions, it also raises serious concerns to governments with respect to the possibility of its misuse for crime as well as making governmental enforcement functions like taxation difficult (OECD, 1997d, p. 10). As a result, the import, export, or use of encryption is regulated in a number of countries such as the U.S., Canada and France. In particular, the U.S. does not permit the export of cryptographic systems that cannot be easily broken. It has enacted laws to restrict the export of certain types of encryption technology that does not allow products that utilize strong encryption to be exported without a permit. However, the U.S. government encryption policy has been challenged because weak encryption technology is not secure for commercial transactions and its policy rationale has been increasingly undermined with the end of the Cold War. As a result, as Grewlich (1999) points out, in the U.S., free speech on scientific and technical matters, controlling scientific communication for purposes of national security and the export laws, particularly in relation to the Internet, have become the objects of a number of court cases (p. 183).

Another approach of the U.S. government to safeguard long term national security concerns is pursuing a key recovery approach to cryptography (Bar, 1997, p. 14), which allows lawfully authorized access to encryption keys. Faced with increasing resistance to
controls on secure encryption technologies, since 1993 the U.S. government has consistently attempted to introduce legislation on the Clipper Chip, or similar alternative. The Clipper Chip is a “device enabling the government to gain access to communications by obtaining a key held by two escrow agents” (Swindells & Henderson, 1998, p. 7). These agents would be either government or private companies. The proposal of the Clipper Chip provoked outrage from businesses and civil rights groups and was defeated. Nonetheless, the U.S. government is persisting with attempts to introduce some sort of key recovery scheme as also found in its “Framework” (Clinton & Gore, 1997). Although the U.S. government has considered a key recovery system to be a possible solution to the problem of encryption, it has raised serious concerns with respect to privacy, its effectiveness and vulnerability. First of all, the key recovery system infringes privacy by allowing lawful surveillance. Second, the entrusting of keys to third parties adds another vulnerability and risk for security simply because more people know about the secret keys and the system’s design (Grewlich, 1999, p. 187).

Although government concerns on national security and public safety are legitimate, strict controls of cryptography are very problematic in particular given that the international nature of the Internet where cryptographic products may be freely available can easily circumvent government export control. Moreover, export control of cryptography and a key recovery system may be regarded as denial of basic human rights because these do not allow the secure transmission of communication, and as well, they infringe privacy. Since most schemes being developed for the use of digital cash or secure payment systems depend on the use of strong encryption, these legal restrictions
also pose a threat to the continuous development of electronic commerce (Mann & Gahtan, 1998, p. 11).

In sum, the availability of secure encryption systems is vital to encourage confidence in new services such as electronic commerce. As a result, it becomes a critical regulatory issue to give the benefits of cryptography to legitimate users, without empowering criminals to use it for illegal purposes. In order to establish more flexible regulation of encryption, the OECD has provided policy guidelines that respect a user’s right to choose any cryptographic method, subject to applicable law (OECD, 1997c). However, it seems unlikely that the tension between the government desire to control cryptography and the users’ need for strong encryption products will be resolved soon.

**Consumer protection**

Price and product information is an essential element for consumers to make informed purchasing decisions in the marketplace. In particular, when a transaction is made between transacting parties without direct face-to-face contact or physical inspection of products, the lack of this information badly affects consumer trust in this form of transaction over the Internet. Moreover, as competition results in increasing entry into the market and convergence allows the offering of bundled communication services, the provision of reliable and detailed product and price information become more critical rights for consumers. By the same token, those pieces of information should be organized in a way that allows consumers to choose what information and how much detail they would like (OECD, 1998).

Furthermore, consumers must be confident that they will be protected in the electronic marketplace as much as they are in the real marketplace. There are several
consumer protection issues identified at the international forums as crucial for the further
growth of electronic commerce. The following are some of those major consumer
protection issues (OECD, 1997b, p. 37): (1) fairness and truthfulness in advertising; (2)
labeling and other disclosure requirements such as warranties, guarantees, product
standards and specifications; (3) conditions for cancellation or cooling off; (4) refund
mechanism in the case of cancelled orders, defective products, returned purchases and
lost deliveries; and (5) a mechanism for qualifying merchants in terms of the above. In
addition to these issues, a GIIC draft report includes online fraud, privacy protection,
authentication and security, and consumer education in the broader area of consumer
protection. (GIIC, 1999, p. 4-5). Consumer protection is a critical element in creating a
trust-conducive environment for electronic commerce. Given the importance of trust in
commercial transactions, consumer protection issues will have a huge impact on the
growth of electronic commerce, requesting the provision of reliable protection
mechanisms by government, civic groups or industry. As a useful form of aid, the new
information and communication technologies may be utilized by regulators and consumer
advocates for devising innovative solutions for consumer protection and education
(Samarajiva, 2000, p. 8).

**Content regulation**

With the opening of borders and markets and the elimination of barriers to almost
any form of communication, there will inevitably be certain types of transmission that
will be deemed inappropriate, offensive or harmful to certain segments of consumers and
users of electronic commerce. In fact, there are already multitudes of such transmissions
throughout the Internet, and many of them are regarded as inappropriate and dangerous in
most societies. Adult materials, hate speech against minors and sedition are leading examples of those expressions that raise public concerns. Therefore, those who are concerned about the vulnerability of minors to these harmful messages eagerly call for regulatory intervention by government to prevent minors from accessing the offensive materials. On the other hand, those who appreciate the heightened access to information argue that government regulation of on-line materials will infringe freedom of expression as well as badly affect the development and diffusion of the Internet and electronic commerce. Due to the cultural/social as well as economic implications of this issue, it becomes one of key policy/regulatory issues to establish a regulatory framework that not only protects minors from harmful materials but also does not infringe the freedom of expression of business nor deter the growth of electronic commerce.

In order to fulfill both objectives of the framework mentioned above, major countries with high diffusion of electronic commerce have increasingly adopted a combination of self-regulation and technological solutions to enhance user control of the harmful materials. Regardless of its limited effectiveness, this form of regulation may seem the only option available for policy-makers these days because as Samarajiva (1997, p. 437-438) argues, some types of direct regulation by government such as “prior restraint of expression by government, criminalization of a certain type of expression after publication, screening of users” are very problematic and unacceptable.

In the U.S. the Telecommunications Act of 1996 and the provision of the Communications Decency Act (CDA) attempted to restrict access by minors to offensive materials. Furthermore, by implicitly referring to the Internet, the CDA specified that it covered content available via an “interactive computer service”. Since “indecent”, not
“obscene” speech has enjoyed First Amendment protection in the U.S., the CDA prohibition of indecent speech would have a huge impact on the Internet (Akdeniz, 1997, p. 231). The CDA provoked outrage from civil liberties groups including The American Civil Liberties Union (ACLU) and was criticized as an unconstitutional restraint on free speech on the Internet. The Supreme Court held the CDA unconstitutional in 1997. This illustrates a current policy trend that direct government regulation of Internet content is neither desirable nor viable in the rapidly changing communication environment.

Recognizing this, in the “Framework”, the U.S. government suggests that flow of freedom must be ensured and any type of censorship must be opposed. Then it claims that to the extent that effective filtering technology becomes available, content regulation would not need to be applied to the Internet (Clinton & Gore, 1997, p. 18). The Framework supports industry self-regulation combined with adoption of competing ratings systems and development of user-friendly technical solutions like filtering and age verification systems to assist users in screening objectionable materials (Maxwell, 1999, p. 7). Belief in technological solutions was evident in the case of the CDA. In this case the plaintiffs relied heavily on the existence and capabilities of filtering software in arguing that the CDA was unconstitutional (Weinberg, 1997 as cited in Slevin, 2000, p. 222). President Clinton also remarked in his statement that “with the right technology and rating systems, we can help ensure that our children don’t end up in the red light districts of cyberspace” (Clinton, 1997).

In contrast to the U.S., there is more apparent public interest in protecting against illegal and harmful content than in protecting free speech in the EU. The attempts of some member states to censor content on the Internet, however, have failed, only to
demonstrate that it is impossible technically. Some member states such as the U.K.,
France, and Germany have thus adopted or proposed legislation “defining the legal
responsibilities of service providers so that they are only liable for content where they can
reasonably be expected to know it is illegal or fail to remove it once it has been pointed
out to them (Campbell & Machet, 1999, p. 147). Also, many states such as the U.K.,
Belgium and Germany have encouraged the setting up of a self-regulatory mechanism by
the industry (Campbell & Machet, 1999, p. 147). By the same token, emphasizing the
need of cooperation between the member states because of national disparities of defining
“illegal and harmful materials,” the EU has also proposed that self-regulation and
technological solutions are the best means to deal with harmful content on the Internet.

Self-regulation can take different forms. It may consist of an interest group that
sets up a hotline or a web page that supports a particular cause. Another type is industry-
based and involves a provider drawing up codes of conduct that its members or
subscribers must follow (Slevin, 2000, p. 225). Since the Internet brings together so many
different cultural perspectives and opinions on content materials that it carries, however,
self-regulation could be involved continuously in challenges to its legitimacy. For
example, those who advocate the freedom of speech are criticizing various forms of
industry-based or interest group self-regulation as a form of private censorship without
any formal legal authority.

With self-regulation by the industry, technological solutions again are being given
attention to deal with the content regulation issue. While a rating system is similar to the
v-chip technology in broadcasting, filtering technologies allow parents to implement their
preferences as to content when making their decisions for their own children (Akdeniz,
1997, p. 236). Despite some benefits to complement other forms of regulation, these technological solutions have many limitations. Most simply, users may find ways to turn off those systems. Or even the adult users may be unable to easily use those technological solutions, making them give up. In addition, technological solutions would result in the establishment of many rating authorities and these authorities may rate the same content differently. This may possibly raise an issue of arbitrary private censorship, infringing freedom of speech. By the same token, while these rating authorities may claim to be independent, there still exist the problems of accountability and transparency of their activities (Slevin, 2000, p. 227). More fundamentally, rating may not even be workable since there are too many information producers (Samarajiva, 1997, p. 439). In sum, as is the case with privacy protection, content regulation on the Internet seems very likely to be placed in the hands of the private sector, which is widely preferred by governments, industry and consumers with the help of technological solutions because it is seen as a better, if not the only, way to achieve the two conflicting goals of freedom of expression (also, freedom of commercial activities on the Internet) and protection of minors in electronic commerce.

**Ground rules**

As electronic commerce develops as an important way of doing business domestically and globally, there arises the need of creating common ground rules that intend to either replace or complement the existing legal and commercial frameworks that govern how transactions are made within and across national borders. New or modified rules and ways of governing this new type of commercial transaction via electronic
means are needed with respect to many issues of crucial importance to the development of electronic commerce (Mansell, 2001, p. 11). Among those many important issues, this researcher has selected taxation, intellectual property rights, international trade, commercial law and standards for the current study.

**Taxation**

As electronic commerce has considerably increased commercial transactions across national borders, it has become one of the most debated topics in international discussions whether and how to tax these transactions. Electronic commerce is considered by many national tax administrations not only as having the potential for creating a new stream of revenues but also as presenting daunting challenges to national tax systems because new technologies used for electronic commerce open up probabilities of tax evasion and avoidance. In order to properly tax commercial transactions, it is critical to establish the systems by which the tax authorities can obtain accurate and necessary information on those transactions, regarding transacting parties, time, place and volume. However, unlike traditional commerce, some unique aspects of electronic commerce greatly affect the way national tax systems operate (OECD, 1997e, p. 6). First, due to lack of any user control as to the location of the activity, electronic commerce makes it more difficult for tax authorities to determine where a particular transaction is made. Second, technical features of electronic commerce sometimes make it very hard to identify the transacting parties. Lastly, given that tax compliance is facilitated by identifying key taxing points, a so-called disintermediation, the elimination of intermediating institutions, causes decrease in the number of reporting institutions of transactions.
By the same token, taxation issues pose serious problems to business as well because possible double taxation or new taxes will significantly disadvantage electronic commerce over traditional commerce, hampering its further growth. While many believe that existing domestic and international tax regulations may well fit electronic commerce, nonetheless, this new type of commercial transaction raises the need of modification and adjustment of these existing regulations. More significantly, due to its born-global nature, international harmonization of tax regulations is urgently requested. We have witnessed in the past years that three taxation issues have been much debated in international discussion, namely, classification, consumption tax, and income tax.

First, classification concerns whether electronic transactions are regarded as transactions of goods or services. This is especially important for cross-border transactions because different classes of transactions are treated differently for tax purposes. Put differently, whether General Agreement on Tariffs and Trade (GATT) or General Agreement on Trade in Services (GATS) would apply is determined based on how transactions are classified. Traditionally, goods are defined as an end product that can be converted into a tangible or physical product whereas services are intangibles that cannot be converted into physical goods (Teltscher, 2000, p. 5). If electronic transactions are classified as sales of goods, GATT rules would apply. When goods are physically moved across national borders, they are usually subjected to tariff as the GATT rules apply. On the contrary, if these transactions are classified as sales of service, GATS rules would apply. In these cases, tariffs will not apply to services.

A clear distinction between goods and services is questionable in electronic commerce, which thus poses a problem to tax administration. Traditionally, when
products such as software and music are ordered electronically and then are shipped physically via carrier media such as CDs, diskettes and tapes, they are classified as goods and subject to tariffs. A controversy arises when these products are directly downloaded via data files through electronic networks cross border. It is unclear whether these data or their content should be classified as goods or services and what multilateral rules would apply to them. A question of classification in electronic commerce thus also has important implications for national trade policies because the frameworks of GATT and GATS affect these policies differently as illustrated in, for example, application of general obligations. Facing the problem of classification, in 1998, the WTO member states agreed to a two-year moratorium on tariffs on electronic transmissions.

Besides the issue of classification, two other key issues currently debated in relation to electronic commerce taxation concern consumption taxes (indirect taxes) and income taxes (direct taxes). Any country’s direct tax system must specify who is liable for taxes and, for those who are what income is subject to tax (Basu, 2001, p. 8). Source and residence are two basic concepts to answer these questions in international contexts. Residence is thought of as “the country with which a taxpayer has the closest personal links, and source as the country with which income has its closest economic connection” (OECD, 1997d, p. 18). Direct taxes are typically levied by a country on “the domestic and foreign income of its residents and on the domestic source income of non-residents” (OECD, 1997e, p. 22-23). In this sense, collection of direct taxes relies somewhat on evidence of physical connection. As regards evidence of physical connection, permanent establishment is a very important concept to determine a particular tax jurisdiction, namely, in which country income has been generated and is therefore taxed.
According to Article 5 of the OECD Model Tax Convention, permanent establishment means “a fixed place of business through which the business of an enterprise is wholly or partly carried on” (OECD, 1997e, p. 24). This means that places of business that are mobile are not regarded as a permanent establishment. Electronic commerce poses a serious problem to tax administration with respect to this concept of permanent establishment. Since electronic commerce business tends to operate in mobile places, electronic commerce will not result in a permanent establishment in most circumstances, making direct taxation difficult. For example, a question of whether a website or computer server constitutes a fixed place of business raises controversy in international discussion of taxation. This issue will significantly affect firms’ decision of where their business is located because they will favor low-tax countries as a place of business.

Many countries rely on consumption or indirect taxes, such as sales taxes, value-added taxes (VAT) or turnover taxes to raise a substantial share of government revenues. For example, consumption taxes accounts on average for 29 percent of the tax revenues in the EU member countries (Teltscher, 2000, p. 9). Consumption taxes are traditionally borne by consumers while sellers act as tax collectors. As electronic commerce has increased considerably the number of online suppliers who are often subject to different taxation rules, possibilities of double taxation and tax evasion have also significantly increased, posing serious problems to national tax systems. Moreover, as Teltscher (2000) points out, different and inconsistent national taxation rules for electronic commerce have a significant impact on consumers’ purchasing behaviors, favoring foreign suppliers over local suppliers (p. 9). For example, under the EU VAT system,
Unlike EU businesses, non-EU suppliers are tax-exempted for e-services to EU consumers. This provides a strong incentive for suppliers to locate outside the EU, which is much easier in electronic commerce than traditional commerce.

In order to resolve direct and indirect tax-related problems in electronic commerce and reconcile different national positions, the OECD has developed a set of rules to set up an internationally consistent and harmonized taxation framework. As a result of this effort, the OECD has proposed the Taxation Framework Conditions in 1998, which were presented to ministers at the OECD Ministerial Conference, “A Borderless World: Realizing the Potential of Electronic Commerce”. In these framework conditions, five basic principles of international taxation for electronic commerce were presented to help national governments to implement internationally consistent taxation rules. Those five principles are neutrality, efficiency, certainty and simplicity, effectiveness and fairness, and flexibility. Although no formal agreement has been made yet among the major nations on international taxation of electronic commerce, a consensus has been witnessed in international discussions and negotiations as regards definitions, classifications, basic principles, enforcement and so on.

**Intellectual property rights**

Intellectual property rights have been crucial in providing incentives for producers of intellectual and cultural products and services by ensuring legitimate commercial returns to their investment and efforts. Intellectual property is a legal term and generally refers to industrial property and to copyright and related rights. These rights protect not only expressions and applications of ideas and information with some commercial value but symbols that distinguish companies or products (Grewlich, 1999, p. 218).
Historically, intellectual property has included patents, trademarks, industrial designs, apppellations of origin, and copyright in literary, musical, artistic, photographic, and audiovisual works (Franda, 2001, p. 119).

An international framework for intellectual property protection has existed since the late 1880s when the Paris Convention for the Protection of Industrial Property and the Bern Convention for the Protection of Literary and Artistic Works were signed in 1884 and 1886, respectively. These two organizations merged in 1893 to form United International Bureaux for the Protection of Intellectual Property, which then became the World Intellectual Property Organization (WIPO) in 1970. As a special agency of the United Nations, the WIPO consists of more than 170 countries as of 2002. The WIPO is the primary international organization to govern intellectual property rights issues. By the same token, as the international efforts to provide enforcement of intellectual property laws, the WTO has included an issue of intellectual property protection in international trade negotiations and adopted the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1995, which is a binding agreement that all WTO members are supposed to follow as long as they remain as members.

New information technologies and commercial transactions via these technologies are dramatically changing the way intellectual and cultural products and services are produced and distributed. Many unique features of electronic commerce present many new problems as regards intellectual property protection of these products and services. Ironically, commercial transactions over the new information networks not only create great new opportunities for the marketing and selling of copyrighted products but also pose a problem to producers of these products because digitized contents and information
can be copied and distributed internationally with relative ease. The cases of MP3 and Napster are good examples of this type of massive piracy. Under existing international treaties and domestic laws on intellectual property rights, the owners of these rights have been granted a range of different rights to control or be compensated for their intellectual property. While legal concepts in intellectual property rights are well established, a question of how these concepts apply in the new environment that electronic commerce has created presents a new challenge.

Copyright is the right “given to the author of defined types of cultural, informational and entertainment productions, which enables him to impede other parties from copying the protected work” (Grewlich, 1999, p. 226). Generally, a literary, musical, dramatic, artistic, architectural, audio, or audiovisual work is protected by copyright from being reproduced without the permission of the copyright holder (Spinello, 2000, p.77). It grants an owner of a copyright an absolute and exclusive right to copy and reproduce, perform, change, and make available the work to the public (Bainbridge, 1994, p. 25). Copyright protects the concrete expression of an idea but not the idea itself. Its protection is limited in time, which varies from country to country. Copyright first developed as a response to the growth of the printing technology and has continuously adjusted to and been modified with technological advance (MacQueen, 2000, p. 182). Copyright protection is crucial to electronic commerce because electronic commerce very often involves trade of goods and services that are based on copyrights, such as music, pictures, photos, software and books. The development of new information technologies and electronic commerce has thus raised a need for adjustment
and modification of existing copyright protection, which requires international cooperation and coordination.

The most fundamental issue raised for the field of copyrights concerns the scope of protection, namely, how rights are defined, and what exceptions and limitations are allowed (WIPO, 2000). As mentioned above, the rights of copyrights holders include in particular, rights of reproduction and communicating their works to the public. When these rights apply to digitized contents, confusion may arise. For example, when different individuals view a copyrighted work on the computer monitors at different times, it is unclear whether this should be regarded as a public performance. The second issue concerns the “fair use doctrine”, which allows journalists, teachers, literary critics and reviewers, researchers and scientists to reproduce certain portions of copyrighted works. As copyrighted works are made available more and more on the Internet, how this doctrine applies and how conflicting stakes between copyright protection and the fair use doctrine can be balanced in the digital environment become important legal issues. Third, an issue of ephemeral or temporary copies is more difficult to resolve due to the unique technological features of the Internet. Such techniques as caching and mirroring make the temporary copying and duplication of web sites possible (Simon, 2000, p. 262). It needs to be clearly addressed whether these types of temporary copies constitute copyright infringement. Lastly, a liability issue also arises as copyrighted materials are transmitted over the networks owned and operated by service providers and telecommunications companies. When piracy of copyrighted materials is made on their networks, it should be clarified whether these service providers and telecommunications companies are to be held liable for copyright infringement.
A trademark is defined as “a sign or symbol used to indicate the source of goods or services and basically functions as a link between a trader and the goods or services manufactured or provided by the trader” (Hourigan, 1998, p. 71). The protection of trademarks is intended to prevent third parties from using these protected signs or symbols, “with the dual purpose of protecting the trademark holder from undue competition by third parties and the consumers from confusion that might result, when identical or similar symbols are used for different companies or products” (Grewlich, 1999, p. 223). Most countries recognize the proprietary nature of trademarks by law. A trader is not granted an absolute monopoly by a registered trademark. Instead, the monopoly is given to the particular goods and services for which the trademark is registered (Waelde, 2000, p. 135). By the same token, trademark law is territorial, which makes it possible for a trader in a different jurisdiction to use the same trademark for the same goods and services in another country (Waelde, 2000, p. 135). As already discussed in the preceding section on the domain name system, the impact of the Internet on trademarks is well manifested in the disputes on the Internet domain names.

A patent granted by government gives to its owner the right to monopolize the use of one’s invention for a limited period and in a limited territory. To be eligible for a patent, it must be applied for in a particular jurisdiction. The subject of a patent must be novel, non-obvious, and useful methods, compositions of matter, machines, manufactures, or improvements thereof. Patents are especially relevant to electronic commerce because underlying technical infrastructures for electronic commerce depend on various information technologies, both hardware and software that are patentable. Various issues arise concerning electronic commerce patents. Like copyrights and
trademarks, jurisdictional issues and enforcement are very important in patent as well. However, the most important issue may concern what are patentable subject matters in electronic commerce. Although patents are crucial for creating incentives and encouraging investment in new technologies, patents too broadly granted to software and business practices and models in electronic commerce may hamper legitimate competition among businesses as demonstrated in the case of Priceline.com (Spinello, 2000, p. 77).

**International trade**

As electronic commerce has burgeoned as an important means of doing business across national borders, various policy issues relating to the international trade aspects of electronic commerce have arisen in international discussions. There are three widely addressed policy issues in international discussion, which affect international trade via electronic commerce in different ways. The first issue concerns how an electronic transmission of information contents, such as software, music and books should be classified for the objectives of the WTO disciplines. In other words, is it considered trade in goods or trade in services? This is crucial because an electronic transmission will be subject to the different WTO rules, depending on whether such a transmission is classified as trade in goods or services. If it is considered trade in goods, the GATT rules apply. On the other hand, if it is regarded as trade in services, it is subject to the GATS rules. There are many differences between these two sets of trade rules in terms of application of national treatment, most favored nation (MFN), and quota principles.

The national treatment principle obliges countries to treat all foreign products as well as they treat similar domestic products (DFAIT, 2000). Under the GATT, this
principle applies to all goods as a general obligation. However, it is not a general obligation under the GATS, under which it only applies to sectors in which members have explicitly scheduled commitments. Moreover, member nations can establish conditions or limitations on their application of the national treatment principle, which may restrict the market access of foreign service providers. This also has significant implications for the issue of custom duties or tariffs because the GATT rules impose custom duties on all imported goods while the GATS rules do not impose custom duties on services, which is particularly critical for developing countries where custom duties account for a considerable portion of national revenues. In order to ensure that the development of electronic commerce is not hampered by the unresolved classification issue, countries made the decision not to impose custom duties on electronic transmissions in the 1998 WTO Ministerial Conference Declaration on Global Electronic Commerce.

By the same token, the principle of most favored nation obliges countries to treat all foreign products alike. This principle applies to all commitments taken under the GATT, requiring any benefits given to one member country to be offered to all other members as well (Gero & Oommen, 1999, p. 324). Under the GATS, the principle also applies to all services in general. However, members are given a one-time opportunity to exempt themselves from the obligation of MFN in service sectors of their own choosing. In addition to the principles of national treatment and most favored nation, the GATT and GATS rules differ on whether quantitative restrictions, namely quotas, are permitted or not. The GATT prevents member governments from using quotas to restrict market access whereas the GATS prohibits it only in sectors where a member has made a
commitment to provide market access without limitations (Mattoo & Schuknecht, 2000, p. 12). As described above, due to these differences between the GATT and GATS, the classification issue with respect to electronic transmission has important implications for international trade via electronic commerce because it will result in significantly different treatment of a product.

The second issue relates to the question of where the transactions occur from an international trade perspective. Put differently, it needs to be clarified whether services delivered electronically across a border should fall within the scope of mode 1 of the GATS, “cross-border supply” in which the supplier enters the jurisdiction of the consumer, or mode 2, “consumption abroad” in which the consumer enters the jurisdiction of the supplier (DFAIT, 2000, p. 4). The distinction between these two modes of supply has significant implications for market access and domestic regulations of service trade. Under the GATS, member countries may make commitments to liberalize specific service sectors and these commitments may differ depending on the modes of supply. Therefore, how electronic delivery of service is classified affects the way electronic commerce is regulated in a particular member country. At the same time, unless the classification issue is clarified internationally, service providers would be left with some uncertainty about what rules apply in a jurisdiction in which they supply services.

The third main issue is that of domestic regulation related to electronic commerce and its impact on international trade. National governments have legitimate public policy objectives in promoting the public interest, which justifies various forms of domestic regulation of electronic commerce. Such objectives include privacy, intellectual property
rights, consumer protection and promotion of national cultural diversity. However, with respect to international trade aspects, it is likely that these domestic regulations may create unnecessary trade barriers for conducting electronic commerce. It thus needs to be addressed how an appropriate balance can be struck between the need of government to pursue these objectives through domestic regulation and the need to ensure that these regulations do not constitute unnecessary trade barriers which hamper the further development of electronic commerce. In order to ensure that domestic regulations should not constrain international trade unnecessarily, various rules governing domestic regulations have been included in international trade agreements. For example, Article VI of the GATS stipulates that WTO members must ensure that in areas where specific commitments have been made, “all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner” (AGB, 1999, p. 28). Another example of an international trade agreement governing domestic regulations is the Reference Paper on Basic Telecommunications Services. The Paper established key principles and requirements that the signatories must follow in enacting national laws and regulations. With respect to electronic commerce, it is also critical to further discussions and negotiations of how and what measures of domestic regulations affect electronic commerce across national borders and whether existing provisions of international trade agreements need modification to deal with problems that electronic commerce creates (DFAIT, 2000, p. 10).

**Commercial law**

As electronic commerce has emerged as a significant means of conducting business, there has been an increased need of adjusting the existing commercial laws to
this new type of transaction. One of the most basic and fundamental commercial law issues to be addressed in international discussions concerns validity, legal effect and enforceability of electronic transactions. Most existing rules and regulations for conducting business have been based on paper instruments and manually written signatures governed by the laws of one national jurisdiction (Townsend, 1998, p. 60).

The existing requirements for the use of paper documents and physically written signatures in commercial transactions are viewed as major obstacles to the development of electronic commerce at both domestic and global levels. In addition, different national rules and regulations governing commercial transactions significantly hamper the worldwide diffusion of electronic commerce, which thus raises a need for international harmonization of different national commercial laws.

The document published by the UNCTAD (2000, p. 35-37) describes some of the main commercial law issues to be addressed in international discussion, which are regarded as creating obstacles in an electronic commerce environment, as follows:

- Requirement for a “written document”: most national laws and international conventions include provisions requiring certain transactions to be concluded or evidenced in writing or certain information to be presented in writing.
- Requirement for “signature”: A signature or other form of authentication is normally required to establish the identity of the signatory and his intention to associate himself with or be bound by the contents of the document.
- Requirement for an “original”: Certain information or documents should be presented in an original form.
- Evidential value of data messages: There are legal systems which exclude electronic messages as acceptable evidence.
- Storage of data messages: The requirement for storage of certain documents or information in paper form for accounting, tax, audit, evidence and other legal or administrative purposes constitute an additional barrier to the development of electronic commerce.
- Document of title/negotiability: Replacement of negotiable documents of title by an electronic equivalent constitutes the most challenging aspect of implementing electronic commerce in international trade practice.
Validity and formation of contracts: While a contract concluded orally is regarded as valid in most legal systems, a number of questions and uncertainties arise in the context of contracts concluded by electronic means.

In order to provide national legislators with a set of legal principles and guidelines for removing obstacles created by the above issues, the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce was adopted in 1996. The Model Law is intended to place electronic transactions on par with the legal treatment accorded to traditional paper-based types of transactions (Overby, 1999, p. 222). Seeking to promote international harmonization of commercial laws, the Model Law provides rules and norms that validate and recognize contracts formed via electronic communications. For example, the provisions of the Model law not only define the characteristics of “original”, “writing” and “signature” in relation to electronic transactions but also address admissibility and evidentiary weight of data messages, the formation and validity of contracts, and recognition by parties to data messages (Townsend, 1998, p. 61). Since it was adopted in 1996, a number of countries have enacted legislation based on the Model Law to ensure the enforceability of electronic transactions. In particular, it is the electronic or digital signature legislation that has seen the most activity during the past years in the areas of commercial law.

While electronic signatures and digital signatures are commonly used interchangeably, they are not the same in the sense that electronic signature is a broader and more comprehensive term than digital signature. An electronic signature refers to simply “any technique or symbol based in an electronic media which is used or adopted by a single party with the intention of linking itself to or authenticating a document, thus
fulfilling all or some of the functions performed by a hand-written signature” (Cavanillas, 1999, p. 13). On the other hand, a digital signature is “a particular type of electronic signature which is very specific, being created with the use of asymmetric or public key cryptography” (Cavanillas, 1999, p. 14). It functions as an authenticating mechanism of electronic documents in much same way that a manual signature authenticates written paper documents. In addition, there are other important functions attached to a digital signature. First, it authenticates the sender of messages. Second, it assures integrity of a message, verifying that a message has not been intentionally or accidentally altered during transmission (UNCTAD, 2001, p. 116). Last, it ensures the non-repudiation of origin and receipt. Some of the important issues to be addressed in digital signatures include “common requirements for certification authorities (CAs), harmonized technical and operational requirements to be met by certain categories of digital signature products, and the legal problems of liability rules and of legal recognition of digital signatures” (Grewlich, 1999, p. 178).

In order to provide solutions to the legal problems resulting from a lack of appropriate rules and diverging national rules and regulations, a number of significant international efforts have been made to achieve international harmonization in digital signature issues, ranging from the initiatives of the regional organizations, such as the Asia-Pacific Economic Cooperation forum (APEC) and the EU to those of intergovernmental organizations, such as the OECD and UNCITRAL. In particular, following its work on the Model Law on Electronic Commerce in 1996, the UNCITRAL adopted the Model Law on Electronic Signatures (MLES) in 2001. The Model Law on Electronic Signature addresses criteria for reliable electronic signatures, the duties of
signatory, certification service provider and relying party, and the recognition of foreign
certificates and signatures (UNCTAD, 2001, p. 117-118). By establishing internationally
applicable rules and norms, the Model Law provides a reliable framework for countries
wishing to enact digital signature legislation.

Standards

In general, standards imply “decisions about the acceptable design, capacities, or
byproducts of products, industrial processes, or technological systems” (Salter, 1999, p.
101). Standards are vitally important components in the information and communication
industries because they define critical interfaces between complementary products and
applications, which then determines the way those products and applications are used in
the everyday lives of users. The rapid diffusion and extensive use of electronic commerce
have considerably increased the need for standards in various products and applications
of electronic commerce, including physical networks and devices (infrastructure) as well
as enabling technologies of business functions (electronic applications). According to
Balto (2000, p. 3), the functions of standards may be identified in three ways: (1)
standards can increase price competition by allowing more readily the comparison of
standard products and applications, (2) standards can increase compatibility and
interoperability, encouraging new suppliers to compete in producing products and
applications related to the underlying standards, and (3) standards can increase the use of
a particular technology, attaching enhanced economic and functional value to the
technology.

Generally speaking, while the rapidly developing and ever-changing Internet and
electronic commerce technologies and applications continuously demand new standards,
it appears that most of these needs have been well handled by key international standard-setting organizations. The principal standard-setting organization is the Internet Engineering Task Force (IETF). As a loosely self-organized international community of researchers, network designers and operators, and vendors, the IETF has developed new standard specifications for the Internet and made other engineering contributions (Simon, 2000, p. 235). The World Wide Web Consortium (W3C) has also been notable in technical standards and guidelines in relation to content-intensive Internet services (Electronic Commerce Task Force, 1999, p. 6). In particular, the W3C has played a key role in developing common protocols for the evolution of the World Wide Web. The most recent addition to the Internet standard, the Internet Corporation for Assigned Names and Numbers (ICANN) is another important non-profit voluntary body, and has performed a key standards related function in relation to governance of Internet names and numbers. In addition to these Internet standard organizations, two international organizations, the International Standards Organization (ISO) and the ITU, which have traditionally been involved in communication standards, have been actively engaged in the Internet-related standards activities.

As regards standards in the Internet and electronic commerce, three main issues are prominent in international discussions. The most significant issue is how interoperability can be ensured among different types of technical products and applications, which is a precondition to electronic commerce over the seamless information and communication networks. As a core function of most information technology products and applications, interoperability refers to “the capacity of products of one vendor to communicate or interface with the products of competing suppliers of
complementary products” (Balto, 2000, p. 2). As regards electronic commerce, the need for interoperability is in particular prominent in such areas as electronic payment systems (electronic cash, electronic transfers, smart cards and the like), security infrastructure (encryption standards), contract infrastructure (standards for authentication, integrity and non-repudiation, and Trusted Third Parties and the like), telecommunications, and data interchange (Lemley, 1999, p. 747).

Another important standard issue involves competition and antitrust law as showcased in the Microsoft antitrust case (Simon, 2000, p. 238). Standards can thwart innovation even though a newer or better technology is available. Moreover, standards can be designed or selected by a competitor or a group of competitors to preclude the use of other competitors’ products and applications, hampering fair competition in the market (Balto, 2000, p. 3). In order to prevent anticompetitive behaviors and promote compatibility and interoperability, open standards have been proposed. In the open standards system, technical specifications of a particular product or application and their changes should be announced publicly in a timely manner so that other technology or application developers are able to design or develop compatible products or applications. However, open standards are oftentimes in tension with the goal of protection of intellectual property rights, which is critical in order to provide the incentives to develop new products and applications (Lemley, 1999, p. 752). Although international standard-setting organizations have suggested that open standards can be preserved in the face of strong intellectual property rights governing these standards, this is seen by many as a very difficult issue to be resolved.
Main Players in Establishing Global Electronic Commerce Governance

As global electronic commerce has led to profound changes in the way economic transactions are made and has spurred the rapid integration of global markets, establishing new rules to govern electronic commerce has become an important policy agenda. Since rules, once established, empower certain social actors over others, the global rule-making process for electronic commerce is inevitably power-laden and contested, reflecting the different stakes and asymmetric negotiating power of various social actors. In mainstream international relation theories, states are viewed as the most important unit and unitary actor of the international system. As regards global electronic commerce governance, asymmetry in infrastructure, skills, and knowledge has led national governments to bring different needs and objectives to the rule-making process, which makes immediate consent to a particular form of governance unlikely.

By the same token, as the international system is increasingly marked by “turbulence,” and other social forces emerge as important actors in international governance, this process has been even more complicated because of the increased transfer of the state’s authority to inter- (or supra-) national organizations and a variety of non-state actors. In particular, the role of the private sector has been prominent in this process, employing various strategies to advocate the business perspective to other stakeholders. In addition, non-governmental organizations have been actively involved in establishing global rules and norms for electronic commerce by addressing public interest concerns. This section briefly identifies main actors who play a key role in establishing governance in global electronic commerce.
Nation-states

The ramifications of electronic commerce for national and international economies have increasingly led national governments to make it a priority agenda item at both domestic and international policy discussions. Not surprisingly, a leading initiative to create a global framework for electronic commerce has been undertaken by those countries with the most advanced infrastructure and significant shares in international trade. The United States released a policy report entitled “A Framework for Global Electronic Commerce” in 1997, which outlines the key principles that will guide the US government’s approach to electronic commerce. The European Union (EU) also launched a policy paper “A European Initiative in Electronic Commerce” in 1997, which aims to promote the growth of electronic commerce in Europe and establish a common European position in upcoming international negotiations to create a global framework. By the same token, Japan, another economic hegemon, joined this initiative by releasing the MITI (Ministry of International Trade and Industry) policy paper in 1997. While these countries have adjusted their domestic laws and rules to promote electronic commerce in their own territories, they also have brought their agenda to the international organizations where their influences have been dominant to a considerable degree.

While some legal issues such as privacy, consumer protection, security and intellectual property rights attract the most attention from policy-makers in developed countries, in addition to these legal issues, the policy-makers in developing and the least developed countries are facing a more fundamental problem: lack of access and skills. As electronic commerce requires some level of capacity in infrastructure, knowledge and
skills, the most urgent policy issue for these countries is to build these capacities to successfully participate in electronic commerce. These countries have increasingly raised this issue and addressed the need for international support at the international organizations, in particular, the United Nations Conference on Trade and Development (UNCTAD) and International Telecommunication Union (ITU). What these countries demand is that the dimension of development should be incorporated in international discussions and negotiations to establish global rules and norms in electronic commerce.

**Intergovernmental organizations**

Historically, intergovernmental organizations have functioned as an important forum to discuss and negotiate international policy agenda and establish international rules and norms. As the global nature of electronic commerce has created the need for internationally shared rules and norms, intergovernmental organizations have increasingly incorporated electronic commerce-related issues in their policy agenda. Many intergovernmental organizations have been involved in varying degree in key electronic commerce-related issues. In particular, the OECD, ITU, and UNCTAD have been actively involved in establishing governance in electronic commerce by hosting international meetings. Moreover, based on these international discussions, they have published key policy documents which have not only identified major problems to be resolved but suggested particular solutions for them. In addition, the roles of other intergovernmental organizations such as the United Nations Conference on International Trade Law (UNICITRAL), World Trade Organization (WTO), World Intellectual Property Organization (WIPO), International Organization for Standardization (ISO), and
United Nations Educational, Scientific, Cultural Organization (UNESCO) have been also notable with regard to particular electronic commerce-related issues.

The OECD is widely viewed as the leading international organization in setting the main policy agenda for electronic commerce. There is no doubt that its work has guided international discussions and significantly influenced the actual contents of domestic and international policies. For example, the OECD has set the main objectives of a global framework for electronic commerce as building trust for users and consumers, establishing ground rules for the digital marketplace, enhancing the information infrastructure, and maximizing the benefits of electronic commerce. These objectives are widely accepted in most discussions of electronic commerce at domestic and international institutions. More specifically, the works of the OECD have covered a wide range of electronic commerce issues, including taxation, consumer protection, privacy, security and access. Their work has made a critical contribution to providing a guiding principle for international harmonization of different national rules and norms. By the same token, the OECD has convened international meetings, including the Ministerial conferences in Turku (1997), Ottawa (1998) and Paris (1999) that were major steps for international policy coordination, and has issued key policy guidelines and recommendations. Its efforts to incorporate various stakeholders in its international discussions were manifested in the OECD Emerging Market Economy Forum on Electronic Commerce in Dubai, 2001.

While OECD has been a discussion forum mainly for the rich countries, the UNCTAD was created by the developing countries as a forum to articulate their trade and economic demands (Archer, 1992, p. 142). The major activity of UNCTAD in the area of
electronic commerce began with its Trade Efficiency Initiative in 1992, which aimed to simplify and harmonize trade procedures for developing countries and provide them with access to information networks and better business practices. By the same token, UNCTAD launched a Global Trade Point Network in 1995 to assist developing countries in their efforts to benefit from developments in electronic communications. With a special grant from the United Nations General Assembly, UNCTAD has increasingly expanded its electronic commerce-related activities, which included a series of workshops and regional meetings on ‘E-Commerce and Development’. These new activities are conducted under the newly created Electronic Commerce Section of UNCTAD’s Division of Services Infrastructure for Development and Trade Efficiency. The main focus is being given to the exchange of experiences among enterprises as well as the provision of training and education for them and for consumers in developing countries.

Founded as a United Nations agency in 1965, the ITU has played an important role in overseeing and ensuring interconnection and interoperability of national systems on a technical and administrative basis through its standards setting activities, and through its recommendations on tariff and accounting rate principles, and by supporting telecommunication development, particularly in developing countries. Electronic commerce is a relatively new area for ITU due to its focus on telecommunication matters. As telecommunication networks are converted into a multi-purpose platform for electronic commerce transactions, however, the ITU has been increasingly brought to the discussion of electronic commerce-related issues. Since electronic commerce-related issues concern chiefly commercial and legal aspects, the attention of ITU has been paid
to the roles of telecommunication regulators in promoting fair competition through ensuring adequate capacity, connectivity, and open access for the development of electronic commerce (ITU, 1998, p. 13). By the same token, the ITU has increasingly emphasized the development aspect of electronic commerce for developing countries. In 1998, it launched a special initiative to assist developing countries to participate in electronic commerce. This initiative, Electronic Commerce for Developing Countries (EC-DC), intends to provide a model that businesses in developing countries can use to access the global marketplace (Utsumi, 1999).

The United Nations Commission on International Trade Law (UNICITRAL) is a core international body in the field of international trade law. Its general mandate is to “further the progressive harmonization and unification of international trade law and to remove unnecessary obstacles to international trade caused by inadequacies and divergence in national legislation affecting trade” (OECD, 2001b, p. 6). The work of the UNICITRAL has been in particular prominent in enabling commercial use of international contracts. For example, the UNICITRAL has completed work on model law with respect to electronic commerce in 1996 and electronic signatures in 2001, which provide guiding principles for the national legislation of commercial laws. Another specialized UN agency, the World Intellectual Property Organization (WIPO) is responsible for promoting the protection of intellectual property worldwide. While it administers treaties covering copyrights, patents and trademarks, the WIPO not only helps to resolve intellectual property rights disputes such as domain names disputes, but also assists developing countries (Simon, 2000, p. 359).
By the same token, the World Trade Organization (WTO) is an international body that deals with the rules of trade between countries. Its main roles can be described as “the forum for trade negotiations, the administrator of agreement, and the dispute-settlement mechanism” (Simon, 2000, p. 351). The WTO can exert a great influence on electronic commerce in such areas as trade in goods and services, custom duties on information technology products and services in general, government procurement, and intellectual property rights, via its binding agreements such as the GATS, the WTO Agreement on Basic Telecommunications, and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In addition, while the International Organizations for Standardization (ISO) has been engaged in establishing the Internet standards, the UNESCO has dealt with issues related to the digital divide.

**The private sector**

The past three decades have witnessed that globalization and worldwide deregulation led to the considerable transfer of the state’s authority to non-state actors in the areas of economic and social policies. This change has been notable at both domestic and international levels. In particular, the private sector has increasingly taken up the authority from states in domestic economic policies and expanded their influence beyond their national boundary. The private sector has increasingly occupied the important place in establishing norms, rules, and institutions that “guide the behavior of the participants and affect the opportunities available to others” (Cutler et al., 1999, p. 4). Murphy (2000) thus properly points out that “what is really new about global governance in the last decade is global-level “private” authorities that regulate both states and much of
transnational economic and social life” (p. 794). For a long time, the transnational corporations (TNCs) and multinational corporations (MNCs) have lobbied their national governments to represent their interests in multilateral trade negotiations and exercise unilateral and bilateral measures to punish foreign countries for unfair trade behaviors.

By the same token, the private sector has been engaged collectively in the domestic and international policy-making process by forming associations, alliances or formal organizations. While these private organizations reconcile different stakes of the members on a particular policy issue and draw consensual agreement on the issue, they also directly involve the policy-making process by advocating their position in the negotiation at domestic and international levels. In the past, these organizations operated primarily on the domestic level. However, such political representation in the rule-making process has also remarkably increased at the international level as international negotiations are opening up to non-state actors (Cutler et al. 1999, p. 12). This is very notable in international rule-making for electronic commerce. In response to the need for a collective industry voice on electronic commerce governance in domestic and international negotiations, the private sectors formed several business organizations and alliances that embrace a variety of the information and communications technologies (ICTs) business across countries. The Alliance for Global Business (AGB) and The Global Business Dialogue on Electronic Commerce (GBDe) are the leading examples of international business alliances in the area of electronic commerce. In addition, the Transatlantic Business Dialogue (TABD) has been very active in electronic commerce-related issues as well.
The AGB is a coordinating mechanism of leading international business organizations created to provide private sector leadership on information society issues and electronic commerce (AGB, 1999, p. 6). Its founding organizations are the Global Information Infrastructure Commission (GIIC), The Business and Industry Advisory Committee to the OECD (BIAC), International Chamber of Commerce (ICC), International Telecommunications Users Group (INTUG), and the World Information Technology and Services Alliance (WITSA). Its membership represents a broad range of business across over 140 countries and includes providers and users of information technology, large transnational corporations and SMEs (small-medium enterprises) in developing as well as developed countries. Its primary goal is to voice a coherent and unified opinion of the private sectors to international organizations and national governments. Its positions on electronic commerce-related issues are well described in The Global Action Plan for Electronic Commerce, whose initial version was officially submitted to the OECD governments at the 1998 Ministerial Conference on Electronic Commerce. In this document, the AGB calls for a minimalist approach of government regulation and the business-led self-regulatory governance of electronic commerce. The Action Plan addresses the private sectors’ position on various electronic commerce-related issues, including privacy, security, intellectual property rights, consumer protection, taxation and market competition.

The GBDc is the private sector effort to develop the principles, rules and norms to create a basis for global public policy on electronic commerce. The organization was formed in January 1999 and is comprised of the CEOs (Chief Executive Officers) and board-members of sixty-two companies from three regions: the Americas, Europe/Africa,
and Asia/Oceania. These companies include service providers, high-end services, manufacturing, and media/content. Since its launch, the GBDc has initiated constructive dialogue with key national governments, regional organizations and multilateral institutions to develop a global policy framework for electronic commerce. The GBDc has also invited government and international organization officials to international meetings to promote the industry view on electronic commerce governance. The main focus of the GBDc activity has expanded to nine areas which are consumer confidence, convergence, cyber security, digital bridges, e-government, intellectual property rights, Internet payments, taxation, and trade/WTO.

Lastly, the Transatlantic Business Dialogue (TABD), created as a CEO-only business-to-business forum in 1995, provides a “practical framework for enhanced cooperation between the transatlantic business community and the governments of the EU and the US” (TABD, 2002). Its activities on electronic commerce began in 1997 by adding electronic commerce to its agenda and creating a special issue group on electronic commerce, which made the TABD one of the first forums for the private sector and governments to discuss electronic commerce and its regulation. As regards electronic commerce, its early activities focused on the following five key issue areas: personal data and privacy; digital signatures; encryption; tax, tariff and customs; and intellectual property protection (TABD, 1997 as cited in Cowles, 2001, p. 8). In particular, the impact of the TABD’s work on the views of the European Commission has been considerable (Simon, 2000, p. 374). Identifying priority issues for 2002, the TABD states that its proposal will focus on how to boost e-commerce growth, targeting current EU and US
legislative proposals and regulatory bottlenecks, and include business-to-business recommendations from the technology users’ perspective (TABD, 2002).

Non-governmental organizations

Another type of non-state actor that plays an important role in international governance is non-governmental organizations (NGOs) and social movements, or civil society actors. While non-governmental organizations have existed for a long time and been actively engaged in addressing social issues at the domestic level, what is really new in the recent years is the tremendous explosion in numbers, activity, and visibility of international initiatives by these organizations on a variety of issues. In the face of powerful global market forces that are increasingly determining national economic destinies and the inability of the nation-state to offer much protection, civil society actors have been aware of the urgent need for international alliance to address concerns of citizens alienated from the globalization process and advocate their interests on negotiation and decision of international issues. Due to the socio-economic impact that electronic commerce has on all facets of our lives, the non-state actors such as public interest groups, consumer groups and trade unions have actively intervened in the policy process at domestic and international levels. Since market forces will not solve all electronic commerce-related issues, they argue that social dimensions such as universal access, privacy, and consumer protection should be incorporated in international negotiations to establish a global framework to govern electronic commerce.

Among many NGOs that are working on electronic commerce issues, the activity of the Global Internet Liberty Campaign (GILC) is prominent. As an international
coalition of more than sixty civil liberties and human rights organizations from around the world, the GILC aims to promote and protect the rights of citizens and consumers on the global Internet, including free speech, privacy, and equality of access through a program of public education and outreach, policy advocacy, dialogues with national and international policy-makers, and coalition building. The main policy issues that GILC focuses on in its activities are freedom of expression, protection of privacy, cryptography, and access. The GILC has produced a series of reports and organized several international meetings for non-governmental organizations to address the concerns of the public on these issues since 1996. For example, the 1998 Ottawa conference, *The Public Voice in the Development of Internet Policy*, addressed key public and consumer interests in electronic commerce with respect to consumer protection, free speech on the net, access, privacy and encryption. In particular, the conference statement was accepted by the OECD for its 1998 Ottawa Ministerial conference as an official document (Akdeniz, 1999). The GILC also sponsored another NGO conference in electronic commerce, *The Public Voice in Electronic Commerce* in 1999. This Paris conference brought together participants from over twenty-five countries representing international consumer, labor and civil liberties organizations. The major focus of the conference was given to the issues of consumer protection, privacy, access and development, and the implications of the Internet for the future of work and quality of life.

**Summary**

This chapter has laid a contextual foundation for the current analysis of competing policy discourses on electronic commerce governance. To this end, this chapter has been
divided into three subsections. In the first part, a definition of electronic commerce was
provided and its brief history was discussed. Recognizing that electronic commerce can
be defined in various ways, for the current study, it is defined as “the application of
information and communication technologies to one or more of three basic activities
related to commercial transactions: (1) production and support, that is, sustaining
production, distribution, and maintenance chains for traded goods and services; (2)
transaction preparation, that is, getting product information into the market-place and
bringing buyers and sellers into contract with each other; and (3) transaction completion,
that is, concluding transactions, transferring payments, and securing financial services”
(Hawkins, Mansell & Steinmueller, 2000, p. 204). In addition, based on who are
contracting each other, different types of electronic commerce were identified.

The second part has addressed what the key issues are in electronic commerce
with respect to the establishment of its governance. Taking the risk of arbitrary selection
and possible exclusion of other significant policy issues, this study has identified thirteen
issues that have then been grouped into the three large categories of access, trust and
ground rules. The category of access includes access to infrastructure, access to contents,
universal access, and Internet names and numbers. Trust-related issues are privacy,
security, consumer protection and content regulation. Lastly, taxation, intellectual
property rights, international trade, commercial laws and standards are included in the
category of ground rules. As regards each of these thirteen key issues, a general
background was provided and main problems to be addressed in international discussion
were identified.
The last part of this chapter intended to identify who has been involved in the global rule-making process for electronic commerce. In order to avoid a state-centered bias and better understand the global rule-making process, this dissertation argued that non-state actors and their engagement in this process be given more attention. To achieve this objective, this study has considered roles of the non-state actors such as the private sector and non-governmental organizations in establishing electronic commerce governance. As this chapter has pointed out, therefore, main players who are involved in electronic commerce governance and its creation, include not only nation-states, regional organizations, and intergovernmental organizations but also the private sector and international non-governmental organizations. The most prominent and active organizations were identified in each category of main players and a brief explanation of their organizational characteristics and activities was provided.
CHAPTER 5

FRAMING GLOBAL ELECTRONIC COMMERCE GOVERNANCE

Introduction

Frames on electronic commerce governance have a unique argumentative structure. This structure consists of various constitutive features whose function as a whole is to construct a consistent and persuasive narrative or story on how global electronic commerce should be governed. Using a content analysis of policy documents issued by international organizations, the current chapter presents an empirical study of the emerging policy discourse on the governance of global electronic commerce. In doing so, the current study breaks frames down into their constitutive features and examines whether similarities or differences exist among the emerging frames with respect to each feature of the frames.

Through an in-depth examination of sample policy documents and other supporting materials such as scholarly articles and media reports, the researcher has discovered three working frames on the governance of electronic commerce and identified their six constitutive elements that include problem definition, objectives, principles, types of intervention and policy instruments, primary actors and their roles, and key metaphors and other rhetorical devices. Coding categories have been developed
Problem Definition

Scholars have increasingly noted that the rule-making or policy process is significantly affected by how certain social, political, or economic issues are defined and whose definition will prevail in the process. By attaching a particular meaning to them, a problem definition highlights some aspects of the issues, throwing other aspects into the shadows. According to Stone (1989), problem definition is a “process of image-making, where the images have to do fundamentally with attributing cause, blame, and responsibility” (p. 282). For some sociologists, it is also “the process of how social conditions are transformed into social or policy problems that are fundamentally defined or socially constructed by human beings in their everyday interactions” (Welsh, 2000, p. 668-99). These socially constructed problems thus do not necessarily reflect any absolute, objective reality. Rather, based on symbols, language, assumptions, and value judgments, these constructions are inevitably arbitrary, subjective, and unstable. In this sense, the direction of debate in the rule-making process is oftentimes influenced more by struggles over what the problem is than by the merits of particular policy proposals (Burstein & Bricher, 1997, p. 137).

How policy issues are defined also steers choices of acceptable and viable actions and solutions to the problem conditions, as well as the design of specific policy
instruments (Harcourt, 1998, p. 370). It legitimates a particular course of actions, solutions, and policy measures over others and more importantly, privilege particular social actors over others in the rule-making as well as the implementation process. As a result, all the participants seek to impose their preferred definitions on problems throughout the rule-making process (Weiss, 1989, p. 98). Since each definition suggests a set of actions, solutions and policy instruments that may privilege particular actors over others, those who are disadvantaged by one definition tend to be highly motivated to develop and win acceptance for their own definition, thereby increasing the number of problem definitions on the policy issues (Burstein & Bricher, 1997, p. 141). Conflicts thus arise in the rule-making process since contending parties sometimes hold incommensurable definitions that lead to the construction of incompatible meanings for the problems. In this sense, the struggles over the definition of policy problem and thus competition for the control of the rule-making process are “symbolic contests over the social meaning of an issue domain in which meaning implies not only what is at issue but what is to be done” (Rein & Schon, 1994, p. 29).

For those who analyze frames, a first key issue is how many ways a particular problem can be defined. While they usually begin with a belief that any problem can be defined in many ways, in many cases, only one, or very few definitions of the problem is actually arrived at. One possible explanation for this is that resources and opportunities are asymmetrically distributed among social actors, so that it is difficult to produce and sponsor alternative definitions which are opposed to the dominant one. The powerful actors usually control access to key social institutions such as the mass media and the schools, which significantly limits other actors’ capacity to disseminate their definitions
and win their popular acceptance. In addition, since the particular cultural traditions, and social values and beliefs are so well established and deeply embedded in a society, alternative definitions that challenge this cultural system can hardly win popular support from the general public. However, this does not mean that material power or the cultural system is the sole or the most critical determinant of how a problem will be defined and whose definition will prevail. Rather, it should be seen that these factors set the boundary within which particular problem definitions arise and compete to win the popular acceptance. This can also apply to the case of international policy problems since the international system is a form of society where international actors compete with each other for their own definition of international policy problems to be widely discussed and supported.

Electronic commerce governance has emerged as an urgent international policy problem to be addressed by international actors, as electronic commerce is becoming an important form of commercial activity and international trade. Being aware of this new phenomenon and its broader implications for our political, economic, social and cultural lives, various social actors have increasingly addressed how various problems that global electronic commerce raises should be addressed. Since different views on the problem steer choices of different courses for actions, solutions, and policy instruments, the first task in the investigation of emerging forms of electronic commerce governance is to examine how problems are defined in electronic commerce governance. To this end, an in-depth examination of sample documents and other supporting materials such as scholarly articles and media reports has been conducted, which has revealed that three
problem definitions have emerged in international discussion and negotiation on electronic commerce governance.

As the following discussion suggests, these problem definitions are clearly in contrast with each other in the sense that each definition sheds light on different aspects of problems that electronic commerce creates. In analyzing the emerging frames on electronic commerce governance, recognizing differences in how problems are defined is very crucial because different definitions of problems determine the way objectives are set and a particular course of actions and solutions is chosen. The first definition underscores a problem of uncertainty that different national legal and regulatory systems create in conducting business online, which oftentimes crosses national borders. For those who produce and sponsor this definition, incompatible and uncoordinated national laws and regulations that govern electronic commerce are the main barrier for businesses in adopting and conducting electronic commerce, making its further diffusion and growth difficult. What this definition intends to focus on is thus the economic dimension of electronic commerce, addressing businesses’ concerns in conducting electronic commerce as a major problem.

On the other hand, the second problem definition pays primary attention to the development dimension of global electronic commerce. According to this definition, one of the most urgent problems in global electronic commerce is that a lack of capacity in access to the networks, knowledge and skills necessary to participate in electronic commerce among the majority of the world population significantly limits the potential of electronic commerce and widens the gap between those who have this capacity and those who do not. Lastly, the third emerging definition shifts our attention to another important
aspect of electronic commerce governance, stressing that the social dimension of electronic commerce is seriously underestimated in recent domestic and international debates for creating its governance. According to this definition, as electronic commerce via new information and communication technologies changes the way consumers purchase and consume goods and services, it creates various new problems with respect to the protection of consumers’ rights. Put differently, this definition sheds light on the fact that when or after commercial transactions are made online, a consumer’s privacy, freedom of expression and right to information as basic human rights are oftentimes infringed.

Overall, a content analysis of policy documents published by six international organizations has found that these three problem definitions have widely appeared in international discussions and negotiations to establish global rules and norms for electronic commerce. However, each of these definitions has been given a different amount of attention as found in the analysis of the international policy documents. In other words, a particular problem is identified as most significant by some organizations in their documents but it is viewed as less serious by other organizations. Table 2 clearly indicates that each of the problem definitions is given a different amount of attention by the six international organizations in their documents.

As the table shows, a definition which renders the regulatory uncertainty that different national legal systems create a major problem in global electronic commerce is most widely found in the documents of the OECD (74.67 percent), GBDe (92.59 percent) and AGB (71.11 percent). This definition is dominant in their documents, accounting for more than 70 percent of total cases for problem definitions. However, this problem is not
viewed as very serious by the other three international organizations in their documents, accounting for only a moderate or small percentage of frequency for the UNCTAD (16.88 percent), ITU (24.44 percent) and GILC (7.40 percent). Instead, deficiency in access, knowledge and trust is recognized as a more urgent problem to be addressed in the international rule-making process for global electronic commerce by the UNCTAD (83.11 percent) and ITU (73.33 percent) in their documents. This finding is of no surprise given that these two intergovernmental organizations are widely known for their longtime commitments to assisting the developing countries and their development projects.

<table>
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<tr>
<th>Problem Definition</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GBDE</th>
<th>AGB</th>
<th>GILC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory uncertainty due to national legal discrepancies</td>
<td>52 (76.47)</td>
<td>13 (16.88)</td>
<td>11 (24.44)</td>
<td>25 (92.59)</td>
<td>32 (71.11)</td>
<td>4 (7.40)</td>
</tr>
<tr>
<td>Deficiency in access, knowledge, and trust</td>
<td>14 (20.58)</td>
<td>64 (83.11)</td>
<td>33 (73.33)</td>
<td>2 (7.40)</td>
<td>12 (26.66)</td>
<td>24 (44.44)</td>
</tr>
<tr>
<td>Lack of protection for consumer’s rights</td>
<td>2 (2.94)</td>
<td>0 (0.00)</td>
<td>1 (2.22)</td>
<td>0 (0.00)</td>
<td>1 (2.22)</td>
<td>26 (48.14)</td>
</tr>
<tr>
<td>Total N (%)</td>
<td>68</td>
<td>77</td>
<td>45</td>
<td>27</td>
<td>45</td>
<td>54</td>
</tr>
</tbody>
</table>

Table 2 Problem Definition

On the other hand, the documents of the GILC, an international coalition of non-governmental organizations, take a different view as regards what is the most serious issue that electronic commerce raises, addressing the lack of protection for the consumer’s rights as a major problem to be given more attention in the international rule-
making process for electronic commerce. One notable finding indicated in Table 2 is that
deficiency in access, knowledge and trust can be identified as considerably significant by
the GILC in their documents as well (44.44 percent compared to 48.14 percent of lack of
protection for consumer’s rights). A reason for this result is that an access to advanced
information and communication technologies is regarded as a basic human right, as are
freedom of expression and the right to privacy. It needs to be pointed out that while the
UNCTAD, ITU and the GILC recognize deficiency in access, knowledge and trust as a
major problem in their own documents, there exists a slight difference in how these
organizations understand this problem. In other words, while the UNCTAD and ITU tend
to approach a problem of deficiency in access, knowledge and trust from an international
standpoint (between countries) in their documents, the GILC documents recognize this
problem mainly, though not exclusively, as a domestic issue (within a country).

The current study also examines in which policy areas each of these problem
definitions has frequently appeared. A primary goal of this analysis is to identify
similarities and differences in the way the policy documents of six international
organizations define the problems that electronic commerce creates in particular policy
areas. In addition, this analysis also intends to discover, first, if different amounts of
attention are given to different policy areas by different international organizations and
second, if different problem definitions appear in different policy areas in the documents
of one organization. In regards to the results of the analysis of attention given to key
policy areas, it must be noted that differences in frequency among the key policy areas
only indicate a general tendency in terms of which issues a particular organization has
greater interest in. With relatively small numbers in frequency and no statistical
examination of their differences, it may be dangerous to generalize these results. This caution also applies to the results in the following analyses of other frame elements.

Overall, as illustrated in the following three tables, the analysis has found that there exist relatively clear differences among the organizations in defining problems in a particular policy area of electronic commerce, reflecting their different organizational missions and interests. First of all, Table 3 presents the frequency of the three problem definitions in each of the thirteen key policy areas in the documents of the OECD, GBD e and AGB, which were found to share a similar view on problem definitions with respect to electronic commerce governance in Table 2. As regards a definition of regulatory uncertainty that was identified as the major problem definition by the OECD, GBD e and AGB, there are notable overlaps for these three organizations in policy areas where this definition more frequently appears. As indicated in Table 3, the OECD documents mention this definition most frequently in the areas of security (9 times), consumer protection (8 times), and universal access (6 times). This definition appears more often in consumer protection (4 times), taxation (4 times) and content regulation (3 times) in the documents of the GBD e, while taxation (6 times), intellectual property rights (7 times), and consumer protection (4 times) are three policy areas in which this definition is found most often in the documents of the AGB. Moreover, this result suggests that trust (privacy, security, consumer protection and content regulation) and ground rules (taxation, IPR, international trade, commercial law and standards) issues are given more attention by these organizations in their documents, compared to access-related issues.
<table>
<thead>
<tr>
<th>Unspecified</th>
<th>Others</th>
<th>ACCESS</th>
<th>TRUST</th>
<th>GROUND RULES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory uncertainty due to national legal discrepancies</td>
<td>7/4/6</td>
<td>3/0/1</td>
<td>1/0/0</td>
<td>2/0/0</td>
</tr>
<tr>
<td>Deficiency in access, knowledge, and trust</td>
<td>6/0/8</td>
<td>2/0/1</td>
<td>0/1/0</td>
<td>0/0/2</td>
</tr>
<tr>
<td>Lack of protection for consumer’s rights</td>
<td>1/0/0</td>
<td>1/0/0</td>
<td>0/0/1</td>
<td></td>
</tr>
</tbody>
</table>

# Three numbers in each cell refer to the frequencies of the OECD, GBD and AGB, respectively.
# AU: Access Unspecified
# TU: Trust Unspecified
# GU: Ground Rules Unspecified

**Table 3 OECD, GBD and AGB: Problem Definitions in Key Policy Areas**
On the other hand, as we saw in Table 2, regulatory uncertainty is not given much attention in the documents published by the UNCTAD and ITU. Instead, their documents identified deficiency in access, knowledge and trust as the most urgent problem in electronic commerce governance. Since this definition is closely related with access-related issues, this definition tends to be mentioned in such policy areas as access to infrastructure, access to content, and universal access. As Table 4 illustrates, the definition of deficiency in access, knowledge and trust is most found in access to infrastructure and universal access in the documents of the UNCTAD and ITU. Interestingly, neither of the two organizations mentions this definition as related to the issue of Internet names and numbers. One possible explanation for this result is that lack of basic infrastructure and knowledge significantly limits use of the Internet and thus leads to a lack of interest in the issues of Internet names and numbers.
<table>
<thead>
<tr>
<th>Unspecified</th>
<th>Others</th>
<th>ACCESS</th>
<th>TRUST</th>
<th>GROUND RULES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory uncertainty due to national legal discrepancies</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11/4</td>
<td></td>
<td>0/2</td>
<td>0/2</td>
<td>1/0</td>
</tr>
<tr>
<td>Deficiency in access, knowledge, and trust</td>
<td>42/11</td>
<td>2/5</td>
<td>10/4</td>
<td>1/0</td>
</tr>
<tr>
<td>Lack of protection for consumer’s rights</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* # Two numbers in each cell refer to the frequencies of the UNCTAD and ITU, respectively.
* # AU: Access Unspecified
* # TU: Trust Unspecified
* # GU: Ground Rules Unspecified

Table 4 UNCTAD and ITU: Problem Definitions in Key Policy Areas
By the same token, reflecting its organizational commitments to protection of human rights, the GILC gives much attention to universal access and trust-related issues. As indicated in Table 2, the GILC identified both lack of protection for the consumer’s rights and deficiency in access, knowledge and trust as major problems to be addressed in the international rule-making process for electronic commerce. According to Table 5, the definition of lack of protection for consumer’s rights widely appears in such trust-related issues as privacy (5 times), security (3 times), consumer protection (3 times), and content regulation (13 times) in the documents of the GILC. On the other hand, the definition of deficiency in access, knowledge and trust is mostly found in the context of the universal access issue (21 times). Notably, ground rules-related issues are given no attention in the GILC documents, which distinguishes them from those of the other five international organizations.
<table>
<thead>
<tr>
<th>Unspecified</th>
<th>Others</th>
<th>ACCESS</th>
<th>TRUST</th>
<th>GROUND RULES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>AU Access to infra Access to content Universal access Internet NetN TU Privacy Security Consumer protection Content regulation GU Taxation IP Int’l trade Commercial law Standards</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regulatory uncertainty due to national legal discrepancies</td>
<td>1</td>
<td></td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Deficiency in access, knowledge, and trust</td>
<td>1</td>
<td>21</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Lack of protection for consumer’s rights</td>
<td>1</td>
<td>1</td>
<td>5</td>
<td>3</td>
</tr>
</tbody>
</table>

# AU: Access Unspecified
# TU: Trust Unspecified
# GU: Ground Rules Unspecified

**Table 5 GILC: Problem Definitions in Key Policy Areas**
In order to establish governance in electronic commerce, various social actors who produce and sponsor different frames have actively participated in international discussions and have been involved in the international rule-making process in the last several years. Throughout the rule-making process, different frames have competed against each other to win the popular acceptance, which has caused them to affect one another, and has resulted in changes in the frames. Frame changes also imply the changed perception of what policy problems are, leading to the modification of frame features. The second research question of the current study is to examine how the frames have changed through frame conflicts and competition over time. Seeking answer for this question, the current analysis examines whether any change in each of frame elements is found over time in the documents of international organizations.

Table 6 presents frequency of the three problem definitions mentioned in the documents of each organization over the five-year time period studied. As discussed above, each organization understands policy problems in electronic commerce governance from a different angle. Since international discussion and negotiations are still under way to establish global rules and norms in electronic commerce governance, any significantly notable convergence in problem definition is not found in the documents of the six international organizations. Nonetheless, one converging trend needs to be pointed out. As the developing and less developed countries have recognized economic implications of electronic commerce, these countries have increasingly demanded that the international rule-making process consider their lack of capacity in the infrastructure, knowledge, and skills needed to participate in global electronic commerce.
Moreover, they also argue that their participation be ensured in the process of establishing global rules and norms in electronic commerce governance. By the same token, non-governmental organizations have greatly underscored the importance of access to advanced information and communication technologies, which is considered a basic human right and thus must be guaranteed to all regardless of their different socio-economic status.

As a result, we have witnessed in recent years that “digital divide” has emerged as an important policy term and governance issue in electronic commerce in both the domestic and international discussion and negotiation. In fact, digital divide is not a totally new concept. Rather, it is a new term to explain an old familiar problem. A knowledge or information gap has been widely used to describe asymmetric and unequal distribution and possession of knowledge or information between countries and among the population within a country. Though debates are still under way to grasp the essence of the concept, digital divide generally refers to “the differentiation or separation between those with access to the essential tools of the information society and those without such access” (Spectar, 2000, p. 5). Since global electronic commerce requires seamlessly interconnected information networks within and across national borders and its value rises with the increase of users, digital divide has increasingly captured the attention of policy-makers in both the developing and developed countries. Various national and international efforts to minimize the digital divide have been made as well. For example, the Dot-Force was created by the G-8 countries at the Okinawa meeting to assist capacity-building in developing countries in an international effort to bridge the global digital divide.
| Regulatory uncertainty due to national legal discrepancies |
|-------------------------------|---|---|---|---|---|---|---|---|---|
| OECD | UNCTAD | ITU | GIBDe | AGB | GILC |
| 97 | 98 | 99 | 00 | 01 | T | T | T | 97 | 98 | 99 | 00 | 01 | T | T | T | 97 | 98 | 99 | 00 | 01 | T | T | T |
| 18 | 21 | 6 | 3 | 4 | 52 | 4 | 6 | 2 | 1 | 13 | 3 | 8 | 11 | 9 | 9 | 7 | 25 | 3 | 7 | 14 | 1 | 7 | 32 | 1 | 2 | 1 | 0 | 4 |

| Deficiency in access, knowledge, and trust |
| OECD | UNCTAD | ITU | GIBDe | AGB | GILC |
| 1 | 1 | 2 | 10 | 14 | 2 | 7 | 28 | 18 | 9 | 64 | 4 | 4 | 11 | 14 | 33 | 2 | 2 | 1 | 2 | 1 | 3 | 5 | 12 | 2 | 8 | 5 | 9 | 24 |

| Lack of protection for consumer's rights |
| OECD | UNCTAD | ITU | GIBDe | AGB | GILC |
| 2 | 2 | 1 | 1 | 1 | 1 | 1 | 13 | 6 | 6 | 26 |

| Total N |
|---------|---|---|---|---|---|---|---|---|---|---|
| 68 | 77 | 45 | 27 | 45 | 54 |

Table 6 Change in Problem Definition over Time
As digital divide has emerged as a significant policy issue, the problem definition, ‘deficiency in access, knowledge and trust’ has steadily won support at both domestic and international discussions and negotiation in recent years. Table 6 suggests that this converging trend has been widely witnessed in the documents of the six international organizations over the five-year period. As illustrated in the table, frequency of this definition has steadily increased over time in the documents of most organizations. One exception for this converging trend is the UNCTAD in whose documents frequency of the definition has actually decreased. However, given that the UNCTAD is the organization that has most actively produced and sponsored this definition, which was demonstrated in Table 2, the case of UNCTAD does not seem to conflict with this observation. Moreover, an argument for this converging trend seems to be supported relatively convincingly when the cases of the OECD, GBDe and AGB are considered, in whose documents the definition of regulatory uncertainty is overwhelmingly dominant. By the same token, the increased prominence of the definition of deficiency in access, knowledge and trust in the GILC documents can be explained by the organizational commitments of the GILC to ensuring universal access to advanced information and communication technologies which many non-governmental organizations consider as an essential human right in the information society.

In sum, the analysis of the problem definition suggests that policy problems in electronic commerce are differently defined by the six international organizations in their documents. It also shows that three competing problem definitions widely appear in their documents in varying degree. In terms of which definition is more dominant in the documents, the six organizations can be divided into three groups: the first group consists
of the OECD, GBDe and AGB; the second consists of the UNCTAD and ITU; and the last group consists of the GILC. Their different perceptions of policy problems also lead to different emphases in electronic commerce-related issues in the documents of each group. By the same token, the analysis shows that while different problem definitions are generally evident in the documents of each group of organizations, the definition of deficiency in access, knowledge and trust has steadily increased in most organizations’ documents over time.

Objectives

How a particular problem is defined inevitably implies a conception of what is a desirable situation or condition in which the problem at stake is to be resolved. Put differently, definitions of policy problems cannot be separated from particular goals and objectives. Achieving these objectives then in turn means that those problems are solved by social actors through a particular course of actions. As we will see in the following analysis, based on their own definition of policy problems in electronic commerce governance, each frame proposes various objectives to be pursued by social actors and their practices. In order to examine similarities and differences in objectives set by the six international organizations and the relationship between problem definition and objectives, this section analyzes what objectives are proposed and how often these objectives are mentioned in their policy documents. Through a pilot analysis of sample documents and other supporting materials, twelve objectives were identified, which include international policy coherence/harmonization, open and fair competitive (global) market/ access to the global marketplace, capacity-building in access, knowledge and
trust, successful participation in e-commerce, participation in international rule-making and its implementation, production of local contents and products, empowering local enterprises, developing national policy strategy/legal framework, universal access/access affordability, establishing a set of social standards in e-commerce, public intervention in policy-making, and protection of human rights. Since the meaning of these objectives is straightforward, no further explanation seems necessary.

Table 7 provides an analysis of what objectives are mentioned by the six international organizations in their documents. As we can see in the table, these objectives are mentioned in varying degrees in the documents of the six international organizations. As in the case of problem definitions, there are clear distinctions in the way particular objectives are underscored, depending on the organizations. In general, the explicit relationship between how problems are defined and what objectives are proposed is found in the analysis. First of all, in the documents of the OCED, GBDs and AGB, international policy coherence/harmonization is the most frequently mentioned objective, which accounts for 49.27 percent of total cases for the OECD, 64.49 percent for the GBDs, and 59.37 percent for the AGB. These percentages are considerably higher than those of any other objectives found in their documents. International policy coherence/harmonization as an objective directly related to the problem definition that different national laws and policies hinder the further growth and development of global electronic commerce, which was identified as the dominant definition by these three organizations in their documents.
<table>
<thead>
<tr>
<th>Objective</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GBDE</th>
<th>AGB</th>
<th>GILC</th>
</tr>
</thead>
<tbody>
<tr>
<td>International policy coherence/harmonization</td>
<td>102 (49.27)</td>
<td>28 (16.47)</td>
<td>16 (17.58)</td>
<td>40 (63.49)</td>
<td>76 (59.37)</td>
<td>11 (13.09)</td>
</tr>
<tr>
<td>Open and fair competitive (global) market/ Access to the global marketplace</td>
<td>20 (9.66)</td>
<td>2 (1.17)</td>
<td>7 (7.69)</td>
<td>13 (20.63)</td>
<td>20 (15.62)</td>
<td>1 (1.19)</td>
</tr>
<tr>
<td>Capacity-building in access, knowledge, and trust</td>
<td>17 (8.21)</td>
<td>46 (27.05)</td>
<td>19 (20.87)</td>
<td>4 (6.34)</td>
<td>5 (3.90)</td>
<td>3 (3.57)</td>
</tr>
<tr>
<td>Successful participation in e-commerce</td>
<td>3 (1.44)</td>
<td>17 (10.00)</td>
<td>4 (4.39)</td>
<td>0 (0.00)</td>
<td>2 (1.56)</td>
<td>3 (1.19)</td>
</tr>
<tr>
<td>Participation in international rule-making and its implementation</td>
<td>10 (4.83)</td>
<td>20 (11.76)</td>
<td>5 (5.49)</td>
<td>0 (0.00)</td>
<td>23 (17.96)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Production of local contents and products</td>
<td>9 (4.34)</td>
<td>14 (8.23)</td>
<td>9 (9.89)</td>
<td>4 (6.34)</td>
<td>0 (0.00)</td>
<td>2 (2.38)</td>
</tr>
<tr>
<td>Empowering local enterprises</td>
<td>1 (0.48)</td>
<td>8 (4.70)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Developing national policy strategy/legal framework</td>
<td>6 (2.89)</td>
<td>31 (18.23)</td>
<td>19 (20.87)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>3 (3.57)</td>
</tr>
<tr>
<td>Universal access/ Access affordability</td>
<td>22 (10.62)</td>
<td>4 (2.35)</td>
<td>12 (13.18)</td>
<td>2 (3.17)</td>
<td>2 (1.56)</td>
<td>27 (32.14)</td>
</tr>
<tr>
<td>Establishing a set of social standards in e-commerce</td>
<td>3 (1.44)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>14 (16.66)</td>
</tr>
<tr>
<td>Public intervention in policy-making</td>
<td>14 (6.76)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>16 (19.04)</td>
</tr>
<tr>
<td>Protection of human rights</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>6 (7.14)</td>
</tr>
<tr>
<td>Total N (%)</td>
<td>207</td>
<td>170</td>
<td>91</td>
<td>63</td>
<td>128</td>
<td>84</td>
</tr>
</tbody>
</table>

Table 7 Objectives

On the other hand, capacity-building in access, knowledge, and trust is the most frequently mentioned objective by the UNCTAD and ITU in their documents, which
account for 27.05 percent and 20.87 percent of total cases, respectively. Like the cases of the OECD, GBD and AGB, an explicit relationship is noticeable between this primary objective and their dominant problem definition, deficiency in access, knowledge and trust. However, the degree of the relationship between the primary objective and problem definition is much weaker in the UNCTAD and ITU than in the OECD, GBD and AGB.

In the ITU documents, developing national policy strategy/legal framework is considered as another important objective as well, accounting for 20.87 percent of total cases. This objective also widely appears in the documents of the UNCTAD (18.23 percent). This finding suggests that there exists asymmetry among countries in national readiness to participate in global electronic commerce. Despite the quest of developed countries and the private sector for international policy harmonization/coordination, the rest of the world still struggles with the lack of national policy strategies and legal frameworks to promote the adoption and further growth of electronic commerce. This is clearly reflected in the lack of interest in this objective by the OECD (2.89 percent), GBD (0 percent) and AGB (0 percent).

By the same token, the analysis of the GILC documents also suggests that the non-governmental organizations tend to set different objectives, reflecting their interests and organizational missions. The GILC most frequently proposes an objective of universal access/access affordability in its documents, which accounts for 32.14 percent of total cases. With this objective, public intervention in policy-making (19.04 percent) and establishing a set of social standards in e-commerce (16.66 percent) are identified very often by the GILC in its documents as well. Given that the GILC considers the lack of social protection for consumer’s rights and deficiency in access, knowledge and trust
as the major problems in electronic commerce governance, its emphasis on universal access/access affordability and establishing social standards in e-commerce makes a great deal of sense.

For an easy comparison of what objectives are more frequently suggested in the documents of the six international organizations, a rank ordering of five objectives found in the documents of each organization is presented in Table 8. This table clearly demonstrates that both similarities and differences exist within and among the group of organizations in recognizing important objectives in electronic commerce governance. First of all, the OECD, GBDé and AGB most frequently mentioned international policy coherence/harmonization as an objective to be pursued in their documents. Besides this objective, however, some differences are noted among these three organizations as regards objectives. For instance, universal access/access affordability is ranked second in the OECD documents. This reflects the OECD’s recent interest in the issue of digital divide, which mainly results from lack of access, knowledge and trust in using advanced information and communication technologies.

On the other hand, the AGB addresses participation in international rule-making and its implementation second most in its documents. The AGB’s emphasis on the private sector’s involvement in the international rule-making process also provides an explanation for this result. Even though this objective is not explicitly mentioned in the documents of the other international business association, the GBDé, it should be pointed out that the GBDé has been another leading organization that has actively advocated the private sector’s view in international discussion and negotiation, as has the AGB. Despite all these differences, similarity is noted in the documents of these three organizations
with respect to the primary objectives. Namely, two objectives, international policy coherence/harmonization and open and fair competitive (global) market/access to the global market place account for more than half of total cases for the OECD (58.93 percent), GBD(e (84.12 percent) and AGB (74.99 percent).

<table>
<thead>
<tr>
<th>RANK</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GBDE</th>
<th>AGB</th>
<th>GILC</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>International policy coherence/harmonization</td>
<td>Capacity-building in access, knowledge, and trust</td>
<td>Capacity-building in access, knowledge, and trust</td>
<td>International policy coherence/harmonization</td>
<td>International policy coherence/harmonization</td>
<td>Universal access/Access affordability</td>
</tr>
<tr>
<td>2</td>
<td>Universal access/Access affordability</td>
<td>Developing national policy strategy/legal framework</td>
<td>Developing national policy strategy/legal framework</td>
<td>Open and fair competitive (global) market/Access to the global marketplace</td>
<td>Participation in international rule-making and its implementation</td>
<td>Public intervention in policy-making</td>
</tr>
<tr>
<td>3</td>
<td>Open and fair competitive (global) market/Access to the global marketplace</td>
<td>International policy coherence/harmonization</td>
<td>International policy coherence/harmonization</td>
<td>Capacity-building in access, knowledge, and trust</td>
<td>Open and fair competitive (global) market/Access to the global marketplace</td>
<td>Establishing a set of social standards in e-commerce</td>
</tr>
<tr>
<td>4</td>
<td>Capacity-building in access, knowledge, and trust</td>
<td>Participation in international rule-making and its implementation</td>
<td>Universal access/Access affordability</td>
<td>Production of local contents and products</td>
<td>Capacity-building in access, knowledge, and trust</td>
<td>International policy coherence/harmonization</td>
</tr>
<tr>
<td>5</td>
<td>Public intervention in policy-making</td>
<td>Successful participation in e-commerce</td>
<td>Production of local contents and products</td>
<td>Universal access/Access affordability</td>
<td>Successful participation in e-commerce</td>
<td>Protection of human rights</td>
</tr>
</tbody>
</table>

Table 8 Objectives: Rank Order
In the documents of the UNCTAD and ITU, similarity is also noticeable as the table indicates. The three most frequently mentioned objectives in their documents are exactly identical, which account for 61.75 percent of total cases for the UNCTAD and 59.32 percent for the ITU, combined. International policy coherence/harmonization, which appears most often in the documents of the OECD, GBDe and AGB is also addressed relatively frequently by the UNCTAD (16.47 percent) and ITU (17.58 percent) in their documents as well. As regards objectives found in the UNCTAD documents, it needs to be pointed out that participation in international rule-making and its implementation is suggested to developing countries. In this sense, it is different in its treatment of the same objective mentioned in the documents of the AGB, in which the recommendation is made to the private sector.

By the same token, the analysis of the GILC documents clearly shows its commitments to protection of consumers’ rights and interest in terms of the social problems that electronic commerce creates. Aside from international policy coherence/harmonization, the other four ranked objectives relate in one way or another to its interests in the social dimension of electronic commerce. Noticeably, none of the objectives protection of human rights, establishing a set of social standards in e-commerce, and public intervention in policy-making is found in the documents of the UNCTAD, ITU, GBDe and AGB. However, this is not the case for the OECD, in whose documents public intervention in policy-making is recognized as a moderately significant objective (6.76 percent). This is due to the OECD’s efforts to involve non-governmental
and consumer organizations in international discussions and negotiation to establish
electronic commerce governance.

As demonstrated in the analysis of the problem definition, each organization gives
a different amount of attention to different policy areas, reflecting its varying interest in
particular electronic commerce-related issues. In addition, what objectives should be
pursued tends to be determined by the nature of policy issues. In order to explore this
issue, the current study examined what objectives are suggested in key policy areas by
the six international organizations. In presenting the results, as in the analysis of problem
definitions, the researcher grouped the six organizations into three groups and presents
the frequencies for the organizations in each group together in one table. The rationale for
presenting their frequencies together is that the organizations in the same group are found
to share a common problem definition and similar objectives.

Table 9 presents the frequency of objectives mentioned in key policy areas by the
OECD, GBD and AGB in their documents. As the table illustrates, the OECD
documents address international policy coherence/harmonization most frequently, which
tends to be mentioned with respect to security (22 times), taxation (17 times), privacy (12
times), and consumer protection (8 times). As telecommunication deregulation has
dismantled public or private monopolies worldwide, access to infrastructure and global
market for open and fair competition has also emerged as a very significant goal in both
developed and developing countries, which is reflected in the OECD documents (9 times).
By the same token, as digital divide has been increasingly considered as a key
international issue in electronic commerce, access-related objectives have begun to
appear widely in the OCED documents in the past couple of years. While capacity-
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<th>Commercial law</th>
<th>Standards</th>
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</tbody>
</table>

# Three numbers in each cell refer to the frequencies of the OECD, GBDe and AGB, respectively.

# AU: Access Unspecified

# TU: Trust Unspecified

# GU: Ground Rules Unspecified

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**Table 9 OECD, GBDe and AGB: Objectives in Key Policy Areas**
building in access, knowledge and trust and developing national policy strategy/legal framework tend to be mentioned in connection with the universal access issue (9 times and 4 times, respectively), production of local content and products is more frequently mentioned in relation to the access to content issue (8 times).

By the same token, the next two numbers in each cell refer to the frequencies for the two international business organizations, the GBDe and AGB. As demonstrated above, these two organizations and the OECD tend to share similar views on problem definition and objectives. As regards international policy coherence/harmonization, which accounts for most of the cases, the GBDe documents mention this objective chiefly in the context of security (8 times), consumer protection (6 times), taxation (5 times) and IPR (4 times), while the AGB documents do so more frequently in taxation (19 times), security (8 times) and IPR (5 times). In addition, an open and fair competitive (global) market appears more often in connection with the international trade issue (4 times) in the documents of the GBDe and in access to infrastructure (7 times) in those of the AGB. It is also found that the AGB proposes in its documents that participation in international rule-making and implementation be an important objective for Internet names and numbers (7 times), while the GBDe gives more weight in its documents to the issue of the production of local content and products (4 times). Despite some minor differences, therefore, these two organizations show a similar tendency in identifying key policy issues in relation to objectives.

As demonstrated in Tables 7 and 8, the UNCTAD and ITU clearly show a similar organizational orientation with respect to what objectives should be pursued in electronic commerce governance. Known for their long-time commitment to development projects
of the underdeveloped regions of the world, these two intergovernmental organizations have made efforts to bring the development dimension to the international discussions and negotiations to establish electronic commerce governance. These efforts are relatively explicitly reflected in their documents with respect to their objectives. Capacity-building in access, knowledge and trust, and developing national policy strategy/legal frameworks are the two most frequently mentioned objectives in their documents.

Table 10 presents how the documents of these two organizations address objectives in key policy issue areas. Overall, many of their documents tend not to specify a particular policy area when discussing electronic commerce governance; rather, they tend to address the issues generally. This tendency is particularly noticeable in the documents of the UNCTAD. Nonetheless, some policy issues are given more attention than others in the UNCTAD documents. In other words, while capacity-building in access, knowledge and trust frequently appears in access to infrastructure (3 times), developing national policy strategy/legal framework is emphasized in commercial law issues (4 times) in which digital signature is a key policy issue. In addition, international policy coherence/harmonization is addressed more often in relation to taxation (4 times) and commercial laws (5 times). The ITU documents are not much different. Nonetheless, slight differences are noted. For example, universal access/access affordability and capacity-building in access, knowledge and trust are most frequently found in the context of the universal access issue (10 times and 5 times, respectively), whereas open and fair competitive (global) market access appears more often in connection with the access to infrastructure issue (6 times). International policy coherence/harmonization is
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<th>GROUND RULES</th>
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Table 10 (continued)
Table 10 (continued)

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# Two numbers in each cell refer to the frequencies of the UNCTAD and ITU, respectively.
# AU: Access Unspecified
# TU: Trust Unspecified
# GU: Ground Rules Unspecified

Table 10 UNCTAD and ITU: Objectives in Key Policy Areas
underscored mainly in taxation (5 times) and intellectual property rights (5 times). If we consider the two most frequently mentioned objectives, capacity-building in access, knowledge and trust tends to appear in access-related issues while developing national legal frameworks is more often addressed in ground rules-related issues.

Lastly, Table 11 presents results of an analysis of the GILC documents with respect to objectives. As indicated in the table, the analysis shows result similar to that found in the analysis of the problem definition in the preceding section. In other words, irrespective of what objectives it suggests, the GILC gives most regard to universal access and other trust-related issues in its documents. As a result, most of the cases for the GILC are found in these issue areas. For example, universal access/access affordability and public intervention in policy-making are most often mentioned in universal access (21 times and 4 times, respectively). Also, the objective of establishing a set of common social standards in e-commerce is more emphasized in consumer protection (4 times). By the same token, it acknowledges in its documents that privacy and consumer protection are two important policy areas that require international policy coherence and harmonization.
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<th>Access to content</th>
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<th>Consumer protection</th>
<th>Content regulation</th>
<th>GU</th>
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<th>IPR</th>
<th>Int'l trade</th>
<th>Comm</th>
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Table 11 (continued)
Table 11 (continued)

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# AU: Access Unspecified
TU: Trust Unspecified
GU: Ground Rules Unspecified

Table 11 GILC: Objectives in Key Policy Areas
In the preceding analysis of problem definition, the present study suggested that the widening gap among countries and within individual countries in access to advanced information technologies has resulted in an increasing attention to the problem definition of ‘deficiency in access, knowledge and trust’ in both domestic and international discussions and negotiations. A converging trend that can be described as a steady increase in frequency of this definition was widely found across the documents of the six international organizations. Though it is not found in the documents of all six organizations, this converging trend is also relatively notable in the analysis of change in objectives over time.

In a general sense, objectives that to some extent reflect the problem definition of deficiency in access, knowledge and trust include capacity-building in access, knowledge and trust, universal access/access affordability, production of local contents and products, and developing national policy strategy/legal framework. This assumption appears reasonable given that most of these objectives are included in a rank ordering of objectives for the UNCTAD, ITU and GILC as indicated in Table 8. According to Table 12, except in the cases of the AGB and UNCTAD, frequencies of one or more of these objectives increased in the documents of all four other international organizations over the last five years. Given that the UNCTAD has consistently promoted these objectives since becoming involved in electronic commerce-related issues, its different result does not conflict with this overall trend.
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Table 12 (continued)

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<tr>
<td>Public intervention in policy-making</td>
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<td></td>
<td>1</td>
<td></td>
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<tr>
<td>Protection of human rights</td>
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<td></td>
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<td>6</td>
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<tr>
<td>Total N</td>
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<td>84</td>
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</tr>
</tbody>
</table>

Table 12 Change in Objectives over Time
In sum, the analysis of objectives suggests that there exist clear similarities and differences among the six international organizations in recognizing what objectives should be pursued in electronic commerce governance. More importantly, what objectives should be pursued is explicitly related to how problems are defined. When the organizations share a similar view on problems, they tend to set similar objectives. As found in the above analysis, the same or similar objectives are more often mentioned in the documents of organizations within the same group. Furthermore, different groups of the organizations also tend to pay attention to different policy areas, depending on their primary interests. Nonetheless, as demonstrated in the analysis of problem definition, a converging trend can be noted in the form of an increasing interest in the development and social dimensions of electronic commerce, which is widely witnessed in the documents of most organizations.

**Principles**

In international regime theories, principles are considered as an important component of regimes, along with norms, rules and decision-making procedures. In a so-called consensus definition of regimes by Krasner (1983), principles are defined as “beliefs of fact, causation, and rectitude” (p. 2). In his study of international regimes for transportation and communications, Zacher (1996) provides a modified definition of principles. According to him, principles mean “general standards of behavior to which states attach varying degrees of importance and which often have conflicting policy implications” (Zacher, 1996, p. 14). More importantly, distinguishing two kinds of regime change, Krasner (1983) suggests that only if principles or norms are altered, does
a change of regime take place, whereas other changes only lead to a change within a regime.

This implies that principles are a key element of international politics because different and incompatible principles held by different actors tend to lead to conflicts among them. In a comprehensive analysis of global business regulations, Braithwaite and Drahos (2000) explain what are the key roles and functions that principles play. As they put it:

Different actors align themselves with different principles…. Actors articulate and ally themselves with certain principles. Principles propel action in a certain direction. Principles function to secure objectives and goals which are important to the actor. Principles function in a somewhat instrumental fashion. Actors seek, through principles, to incorporate into regulatory system and social practices changes that are consistent with their general values, goals and desire. The abstract nature of principles means that the successful weighting of one principle or set of principles over another only means that the direction for action has been settled on. Once the direction has been set, processes for generating detailed rules of conduct (or changing them) can take place. (Braithwaite & Drahos, 2000, p. 18-19)

Discursive efforts to create electronic commerce governance are also made through contests of principles that social actors support. In particular, as Braithwaite and Drahos (2000) state, international negotiation occurs many times “at the level of principles because it is too complex for each nation to put its national rules on the table as a negotiating position” (p. 29). Since principles mostly work at a relatively abstract level, they tend to open further negotiations and allow flexibility when these principles are converted to specific rules. Moreover, the abstract nature of principles causes symbolic contests among social actors with different principles in the rule-making process. In-depth examination of sample documents and supporting materials found that social actors
held various principles with respect to electronic commerce governance, some of which are compatible but others of which are conflicting. Twenty-nine principles have been identified through this examination.

<table>
<thead>
<tr>
<th>Principles</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GBDE</th>
<th>AGB</th>
<th>GILC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free flow of information</td>
<td>14 (2.45)</td>
<td>0 (0.00)</td>
<td>2 (1.06)</td>
<td>4 (1.63)</td>
<td>15 (3.41)</td>
<td>9 (5.14)</td>
</tr>
<tr>
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<td>6 (1.05)</td>
<td>1 (0.90)</td>
<td>5 (2.67)</td>
<td>8 (3.26)</td>
<td>9 (2.05)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Market force/ Market-driven</td>
<td>55 (9.63)</td>
<td>1 (0.90)</td>
<td>23 (12.29)</td>
<td>17 (6.93)</td>
<td>57 (12.98)</td>
<td>2 (1.14)</td>
</tr>
<tr>
<td>Efficiency</td>
<td>16 (2.80)</td>
<td>4 (3.63)</td>
<td>4 (2.13)</td>
<td>3 (1.22)</td>
<td>25 (5.69)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Market access</td>
<td>13 (2.27)</td>
<td>1 (0.90)</td>
<td>7 (3.74)</td>
<td>15 (6.12)</td>
<td>4 (0.91)</td>
<td>1 (0.57)</td>
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<td>Freedom of contract</td>
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<td>3 (1.60)</td>
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<td>15 (3.41)</td>
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<td>16 (14.54)</td>
<td>39 (20.85)</td>
<td>36 (14.69)</td>
<td>57 (12.98)</td>
<td>8 (4.57)</td>
</tr>
<tr>
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<td>26 (23.63)</td>
<td>17 (9.09)</td>
<td>18 (7.34)</td>
<td>44 (10.02)</td>
<td>4 (2.28)</td>
</tr>
<tr>
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<td>16 (14.54)</td>
<td>8 (4.27)</td>
<td>21 (8.57)</td>
<td>43 (9.79)</td>
<td>3 (1.71)</td>
</tr>
<tr>
<td>Fairness</td>
<td>26 (4.55)</td>
<td>4 (3.63)</td>
<td>9 (4.81)</td>
<td>15 (6.12)</td>
<td>18 (4.10)</td>
<td>2 (1.14)</td>
</tr>
<tr>
<td>Free flow of capital</td>
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<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>1 (0.22)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Nondiscrimination</td>
<td>31 (5.42)</td>
<td>4 (3.63)</td>
<td>7 (3.74)</td>
<td>26 (10.61)</td>
<td>37 (8.42)</td>
<td>1 (0.57)</td>
</tr>
<tr>
<td>Interoperability</td>
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<td>5 (4.54)</td>
<td>7 (3.74)</td>
<td>13 (5.30)</td>
<td>31 (7.06)</td>
<td>1 (0.57)</td>
</tr>
<tr>
<td>Openness</td>
<td>25 (4.37)</td>
<td>3 (2.72)</td>
<td>4 (2.13)</td>
<td>7 (2.85)</td>
<td>11 (2.50)</td>
<td>4 (2.28)</td>
</tr>
<tr>
<td>Transparency</td>
<td>62 (10.85)</td>
<td>4 (3.63)</td>
<td>11 (5.88)</td>
<td>31 (12.65)</td>
<td>45 (10.25)</td>
<td>7 (4.00)</td>
</tr>
<tr>
<td>Equality</td>
<td>14 (2.45)</td>
<td>9 (8.18)</td>
<td>8 (4.27)</td>
<td>0 (0.00)</td>
<td>7 (1.59)</td>
<td>9 (5.14)</td>
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<tr>
<td>Equity</td>
<td>10 (1.75)</td>
<td>5 (4.54)</td>
<td>7 (3.74)</td>
<td>7 (2.85)</td>
<td>4 (0.91)</td>
<td>1 (0.57)</td>
</tr>
<tr>
<td>Cultural identity and diversity</td>
<td>5 (0.87)</td>
<td>4 (3.63)</td>
<td>0 (0.00)</td>
<td>5 (2.04)</td>
<td>3 (0.68)</td>
<td>9 (5.14)</td>
</tr>
<tr>
<td>National sovereignty</td>
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<td>2 (1.81)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
</tr>
</tbody>
</table>

Table 13 (continued)
Table 13 lists these twenty-nine principles and shows how frequently they are mentioned in documents of the six international organizations published in last five years. The total number of cases found in the documents of each organization is the biggest for the OECD, 571, and the smallest for the UNCTAD, 110. As indicated in the table, some principles widely appear across the documents of different organizations whereas others are not even mentioned once by a particular organization in its documents. For example, competition, liberalization/deregulation, neutrality, and transparency are widely found in
the documents of all six organizations. On the other hand, while free exchange of ideas only appears in the documents of the GILC, free flow of capital and public participation are mentioned as a principle only in those of the AGB and UNCTAD, respectively.

<table>
<thead>
<tr>
<th>RANK</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GBDE</th>
<th>AGB</th>
<th>GILC</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Competition</td>
<td>Liberalization/ Deregulation</td>
<td>Competition</td>
<td>Competition</td>
<td>Competition</td>
<td>Right to expression / freedom of Speech</td>
</tr>
<tr>
<td>2</td>
<td>Transparency</td>
<td>Competition</td>
<td>Market force/ Market-driven</td>
<td>Transparency</td>
<td>Market force/ Market-driven (1: tie)</td>
<td>Right to privacy</td>
</tr>
<tr>
<td>3</td>
<td>Market force/ Market-driven (tie)</td>
<td>Neutrality (2: tie)</td>
<td>Liberalization/ Deregulation</td>
<td>Nondiscrimination -tion</td>
<td>Transparency</td>
<td>Right to use encryption</td>
</tr>
<tr>
<td>4</td>
<td>Neutrality</td>
<td>Equality</td>
<td>Affordability</td>
<td>Neutrality</td>
<td>Liberalization/ Deregulation</td>
<td>Free exchange of ideas</td>
</tr>
<tr>
<td>7</td>
<td>Nondiscrimination -tion</td>
<td>Cultural identity and diversity</td>
<td>Fairness</td>
<td>Market access</td>
<td>Interoperability</td>
<td>Cultural identity and diversity (4:tie)</td>
</tr>
<tr>
<td>8</td>
<td>Fairness</td>
<td>Transparency</td>
<td>Equality</td>
<td>Fairness (7:tie)</td>
<td>Efficiency</td>
<td>Right to information</td>
</tr>
<tr>
<td>9</td>
<td>Openness</td>
<td>Nondiscrimination -tion (7: tie)</td>
<td>Neutrality (8: tie)</td>
<td>Interoperability</td>
<td>Fairness</td>
<td>Competition</td>
</tr>
<tr>
<td>10</td>
<td>Affordability</td>
<td>Fairness/ Efficiency (7: tie)</td>
<td>Equity/ Interoperability</td>
<td>Nondiscrimination -tion/ Market access (10:all tie)</td>
<td>Freedom of contract</td>
<td>Free flow of information / Freedom of contract (tie)</td>
</tr>
</tbody>
</table>

| Table 14 Principles: Rank Order |

186
In order to provide a clearer view and easier basis for comparison, a rank ordering of the ten most frequently mentioned principles is presented in Table 14. As illustrated in the table, the results of the analysis lead to some interesting findings. First of all, as demonstrated in the analyses of problem definition and objectives, there is noticeable similarity in certain groups of organizations with respect to what principles their documents consider important in electronic commerce governance. For example, the OECD, GBDe and AGB underscore such principles as competition, market-force/market-driven, market access, liberalization/deregulation in their documents, which reflect their primary interest in the economic dimension of electronic commerce. On the other hand, the UNCTAD and ITU shows more interests in the development dimension in their documents, frequently mentioning equality, equity, and cultural identity and diversity. By the same token, due to its focus on the social aspects of electronic commerce, the GILC in its documents gives more regard to such principles as the rights to expression and privacy, and the right to use encryption. This result suggests that there is a positive relationship between problem definition, objective, and principles.

Secondly, despite the differences among the three groups of organizations, the analysis demonstrates that there also exists a notable similarity among these groups in that the same principles are widely found across the documents of the most international organizations, except the GILC. As indicated in Table 14, namely, seven out of ten principles most frequently found in the documents of the OECD, UNCTAD, ITU, GBDe, and AGB are overlapping. These principles are competition, transparency, neutrality, interoperability, liberalization/deregulation, nondiscrimination, and fairness. Among
these principles, competition is seen as the single most important principle, as it is ranked first in the documents of the OECD (15.58 percent), ITU (20.85 percent), GBDé (14.69 percent) and AGB (12.98 percent), and second in the documents of the UNCTAD (14.54 percent). Even in the documents of the GILC, competition is ranked ninth (4.57 percent). As liberalization and deregulation have been widely introduced in the previously monopolized economic sectors, including telecommunication in most countries, competition has become the guiding norm in domestic and international economic policies. This seems to be the case in electronic commerce-related issues as well. As the results suggest, there seems to be a consensus that competition should be a guiding principle in electronic commerce governance. In this sense, along with another significant principle, liberalization/deregulation, competition has become the dominant ideology in electronic commerce governance. This result suggests that despite their different views on how problems should be defined and what objectives should be pursued in electronic commerce governance, certain principles can be universally accepted to guide the course of actions and strategies of social actors to solve different problems and achieve different goals.

Lastly, as Braithwaite and Drahos (2000) state in their study of global business regulations, transparency has most consistently gained strength in importance in international regulatory debates. Transparency means “the prescription that any person should be able to observe regulatory deliberation or easily discover the outcomes (and their justifications) of the deliberation” (Braithwaite & Drahos, 2000, p. 25). As demonstrated in Table 14, all six international organizations consider transparency as a very significant principle in electronic commerce governance, mentioning it very often in
their documents. By the same token, it may also need to be pointed out that different actors can support the same principle due to different intentions and purposes. This is because the abstract nature of the principle allows accommodation of different goals (Braithwaite & Drahos, 2000, p. 530). For example, as shown in Table 14, despite apparent differences in problem definition and objectives, the documents of both the AGB and GILC support the principle of free flow of information. The reason why this is possible is that free flow of information can simultaneously serve the human rights goals of the NGOs and the profit goals of the private sector.

In order to examine main principles in key policy areas, the present study analyzes in which policy areas these twenty-nine principles appear. As already discussed above, the other five international organizations besides the GILC have identified many of the same principles as the key ones for electronic commerce governance in their documents. Nonetheless, relatively notable differences exist among the groups of organizations in relation to key policy areas. Since some organizations share a common view on principles, these organizations are grouped together, making three groups of organizations; their frequencies are combined in Table 15. As in the analyses of problem definitions and objectives, the first group consists of the OECD, GBDe and AGB, whereas the second group includes the UNCTAD and ITU. The GILC is not included in either of these two groups because of its distinct view. Table 15 summarizes the principles which have appeared in thirteen key policy areas in the documents of these three groups of organizations. The three numbers in each cell refer to the combined frequencies of the first group (the OECD, GBDe and AGB), second group (the UNCTAD and ITU), and the GILC, respectively.
<table>
<thead>
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<th></th>
<th>Unspecified</th>
<th>Others</th>
<th>ACCESS</th>
<th>TRUST</th>
<th>GROUND RULES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>AU</td>
<td>Access to infra</td>
<td>Universal access</td>
<td>Internet N&amp;N</td>
</tr>
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<td>3/0/0</td>
<td>1/0/0</td>
<td>17/2/0</td>
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</tr>
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<td></td>
<td>1/0/0</td>
<td>5/4/0</td>
</tr>
<tr>
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<td>1/0/0</td>
<td>6/6/0</td>
<td>1/0/0</td>
</tr>
<tr>
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<td>3/0/0</td>
<td>1/0/0</td>
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<td>2/0/0</td>
<td>0/2/0</td>
<td>0/0/1</td>
</tr>
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<td>1/0/0</td>
<td>5/0/0</td>
</tr>
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<td>76/24/0</td>
<td>1/0/0</td>
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<td>10/7/3</td>
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<td>5/0/0</td>
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</tr>
<tr>
<td>Free flow of capital</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
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<td>2/0/0</td>
</tr>
<tr>
<td>Interoperability</td>
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</tr>
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<td>3/2/0</td>
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</table>

Table 15 (continued)
Table 15 (continued)

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<thead>
<tr>
<th>Cultural identity and diversity</th>
<th>ACCESS</th>
<th>TRUST</th>
<th>GROUND RULES</th>
</tr>
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<td>2/0/0</td>
<td>3/0/0</td>
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<td>Right to use encryption</td>
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<td></td>
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<td>Right to information</td>
<td>0/0/6</td>
<td>0/0/1</td>
<td>0/0/6</td>
</tr>
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<tr>
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<td>1/0/0</td>
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<td>0/0/1</td>
</tr>
</tbody>
</table>

Table 15 Principles in Key Policy Areas
We have witnessed in the last couple of decades that an argument for the expanded role of the market has increasingly prevailed in domestic and international economic governance. This has been the case for electronic commerce as well. Such principles as market force/market-driven, competition, and liberalization/deregulation are widely promoted as key principles for its governance by most organizations, except the GILC. This is especially notable in access-related issues as indicated in Table 15. For example, competition is most frequently mentioned by the OECD, GBD, and AGB in the areas of access to infrastructure (76 times), universal access (11 times) and Internet names and numbers (15 times). With liberalization/deregulation, competition is also widely mentioned by the UNCTAD and ITU in access-related issues (24 times for access to infrastructure and 6 times for universal access) in their documents, in which equality, equity and affordability appear relatively often as well. This result suggests that there is a widely shared consensus even in developing countries that market competition is a better instrument to achieve capacity-building in access, knowledge and trust than public or private monopoly. On the contrary, none of these principles get much support in the documents of the GILC. This is because the GILC believes that the market alone will not solve all the problems electronic commerce creates. It therefore suggests that government needs to monitor closely business activities and protect consumers from market abuse.

As discussed above, transparency is viewed as a key principle in electronic commerce governance especially in the documents of the OECD, GBD and AGB. With respect to key policy areas, transparency is emphasized by these organizations in such areas as privacy (20 times), consumer protection (25 times) and international trade (22 times). On the other hand, other international organizations mention transparency more
often in access to infrastructure (4 times for the UNCTAD and ITU), universal access (5 times for the UNCTAD and ITU), Internet names and numbers (2 times for the GILC), and content regulation (2 times for the GILC). By the same token, the same principle can be supported by different organizations with different intentions and motives. As indicated in Table 15, free flow of information is considered as an important principle by the OECD, GBDt and AGB as well as the GILC despite their different views on electronic commerce. A possible explanation for this is that the principle of free flow of information can serve the different objectives of social actors who hold competing frames. This argument may be supported by the fact that the OECD, GBDt and AGB primarily mention this principle with respect to privacy whereas the GILC support this principle exclusively in content regulation. This suggests that these organizations support this principle with different intentions. More specifically, free flow of information tends to be supported by the OECD, GBDt and AGB in their documents to justify relaxation of stringent data protection requirements imposed on businesses. On the other hand, the GILC underscores this principle in an effort to challenge any form of content regulation in its documents.

Competition or conflicts between different frames oftentimes leads to change or modification of the frames. This also means changes or modification of their constitutive elements. In the preceding analyses of problem definitions and objectives, the present study found that there has been increasing interest in the development and social dimensions of electronic commerce in international discussion and negotiation over time. Though not as conspicuous as it was in the areas of problem definition and objectives, this converging trend is also noted in the analysis of principles. As Table 16 shows, those
principles that represent the development and social dimensions of electronic commerce have been increasingly supported in international policy documents. These principles are equality, equity, cultural identity and diversity, national sovereignty and affordability. Their increase in frequency over time is witnessed relatively clearly in the documents of the OECD, ITU and GBDe as indicated in Table 16. This is due to their recent efforts to bring the issue of digital divide to international discussion and negotiations. However, in contrast to the results in the analysis of problem definitions and objectives, this increase over time is not noted in the documents of the AGB and GILC.

In brief, the analysis of principles suggests that although there are some differences among the three different groups of organizations in identifying key principles for electronic commerce governance, similarity is more obvious among them as many of the same principles are widely mentioned in the documents of most international organizations. For example, competition is seen as the most important principle by most organizations in their documents. Except for the GILC documents, in particular, competition is considered by all other organizations as a guiding principle to accomplish the further development of electronic commerce in developed countries as well as rapid capacity-building in developing countries, as a comparative analysis of principles in key policy areas indicates. Despite the prevalence of market principles, steady increase of such principles as equality, equity, cultural identity and diversity, affordability and national sovereignty in the documents of some organizations is noted over time.

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<td>3 4 7 2 2</td>
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Table 16 (continued)
| Principle | OECD | UNCTAD | ITU | ODI | CTR | GNI | IADB | ADB | ADBE | ADBE | ADBE | ADBE | ADBE | ADBE | ADBE | ADBE |
|-----------|------|--------|-----|-----|-----|-----|------|-----|------|------|------|------|------|------|------|------|------|
| Cultural identity and diversity | | 1 | | | | | | | | | | | | | | |
| Affordability | | 2 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| National security | | 2 | | | | | | | | | | | | | | |
| Right to self-expression | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Right to privacy | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Right to information | | 1 | | | | | | | | | | | | | | |
| Right to freedom of thought | | | | | | | | | | | | | | | | | |
| Right to freedom of association | | | | | | | | | | | | | | | | | |
| Right to information | | | | | | | | | | | | | | | | | |
| Right to freedom of thought | | | | | | | | | | | | | | | | | |
| Right to freedom of association | | | | | | | | | | | | | | | | | |
| Right to information | | | | | | | | | | | | | | | | | |
| Right to freedom of thought | | | | | | | | | | | | | | | | | |
| Right to freedom of association | | | | | | | | | | | | | | | | | |
| Right to information | | | | | | | | | | | | | | | | | |
| Right to freedom of thought | | | | | | | | | | | | | | | | | |
| Right to freedom of association | | | | | | | | | | | | | | | | | |
| Right to information | | | | | | | | | | | | | | | | | |
| Right to freedom of thought | | | | | | | | | | | | | | | | | |
| Right to freedom of association | | | | | | | | | | | | | | | | | |
| Right to information | | | | | | | | | | | | | | | | | |
| Right to freedom of thought | | | | | | | | | | | | | | | | | |
| Right to freedom of association | | | | | | | | | | | | | | | | | |
| Right to information | | | | | | | | | | | | | | | | | |
| Right to freedom of thought | | | | | | | | | | | | | | | | | |
| Right to freedom of association | | | | | | | | | | | | | | | | | |
| Right to information | | | | | | | | | | | | | | | | | |
Types of Intervention and Policy Instruments

In economic theory, government and market are two major types of regulatory interventions and policy instruments to remedy failures in the marketplace. As electronic commerce has increasingly emerged as a significant form of commercial activity and its unique technological characteristics present many new challenges to the existing domestic and international regulations of commerce and telecommunications, what is a more efficient and appropriate type of regulatory instrument has been at the center of debate in both domestic and international discussions to establish electronic commerce governance. Various stakeholders have shown different preferences on types of regulation, revealing their different views and stakes in electronic commerce governance. In a general sense, three regulatory options have been intensively discussed in international discussions.

The first type of regulation that has been widely discussed in international debates is industry self-regulation. Self-regulation refers to “voluntary rules, the introduction, scope, provisions, monitoring and enforcement of which remain the right and responsibility of participating companies” (Sheridan, 2001, p. 20). According to Rothchild (2001), industry self-regulation usually takes the form of a code of conduct that “an association of traders within a particular industry promulgates and makes applicable to the association’s membership” (p. 185). Those who favor self-regulation maintain that private codes of conduct can supplant administrative enforcement as a mechanism for regulation. Since electronic commerce is in its early stage of development and transactions are often made across national borders, they argue, different government
regulations will create uncertainties and thus hinder rapid diffusion of electronic commerce.

As a second alternative, government regulation is still widely considered as one of the most dependable forms of policy instruments to deal with market problems. It describes activity by the government that impinges on the free operation of markets (Rothchild, 2001, p. 183). Generally, government regulation is justified when it can correct market failure and thus achieve public interest objectives. Those who support government regulation of electronic commerce maintain that industry self-regulation alone will not protect consumers from market abuse and ensure that electronic commerce brings equal benefits to all segments of the population. Moreover, according to them, in many regions of the world, businesses are not capable of creating and enforcing codes of conduct and regulating their own market activities. Lastly, a more integrative approach of co-regulation, which is intended to complement weaknesses of industry self-regulation and government regulation, has increasingly captured attention in international debates for electronic commerce governance. For those who argue for the co-regulation of electronic commerce, a critical question is not which of the two alternatives, government regulation or self-regulation, is better but what balance is appropriate between traditional government intervention and legal compulsion, and industry self-regulation.

Table 17 illustrates what types of intervention and policy instruments are supported in the documents of the six international organizations. As regards coding of types of regulation in Table 17, a brief explanation is necessary. Self-regulation and government regulation in the table does not necessarily mean that either of them is exclusively supported in the documents. Rather, when self-regulation and government
regulation are mentioned together but it is not clear whether it means co-regulation, both are coded separately rather than being coded as co-regulation. On the other hand, when the word “co-regulation” was used or both government regulation and self-regulation are mentioned together to mean explicitly co-regulation, it was coded as co-regulation. As indicated in the table, both similarities and differences are obviously noted among the organizations with respect to what types of regulation are supported in their documents.

<table>
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<tr>
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<th>ITU</th>
<th>GBDE</th>
<th>AGB</th>
<th>GILC</th>
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<td>Self-regulation</td>
<td>84 (59.15)</td>
<td>3 (30.00)</td>
<td>24 (48.97)</td>
<td>50 (81.96)</td>
<td>101 (84.16)</td>
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<td>Co-regulation</td>
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<td>4 (8.16)</td>
<td>2 (3.27)</td>
<td>0 (0.00)</td>
<td>7 (21.21)</td>
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<tr>
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<td>21 (42.85)</td>
<td>9 (14.75)</td>
<td>19 (15.83)</td>
<td>22 (66.66)</td>
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<tr>
<td>Total N (%)</td>
<td>142</td>
<td>10</td>
<td>49</td>
<td>61</td>
<td>120</td>
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</table>

Table 17 Types of Intervention and Policy Instruments

Above all, self-regulation is considerably favored by the OECD (59.15 percent), GBDSe (81.96 percent), and AGB (84.16 percent) in their documents. In particular, support for self-regulation is overwhelmingly dominant in the documents of two international business organizations, the GBDSe and AGB, revealing their distrust of government capabilities in solving problems which electronic commerce creates. Industry self-regulation is also widely supported by the ITU in its documents, which accounts for 48.97 percent of total cases. Given that the ITU tends to share a similar view on electronic commerce governance with the UNCTAD, this result may be little bit surprising. A possible reason for the result is that industry representatives have actively
participated in international meetings hosted by the ITU and advocated the private sector’s view on the regulation of electronic commerce. While many of them have a great interest in how developing countries catch up with more developed countries in the adoption and use of electronic commerce, sharing common problem definitions and objectives, they tend to differ from the policy-makers of developing countries in terms of what types of intervention and policy instruments are more effective and desirable.

On the other hand, government regulation is still seen as a better instrument to govern electronic commerce than industry self-regulation in the documents of the UNCTAD (60 percent) and GILC (66.66 percent). Though it is favored slightly less than self-regulation, government regulation is widely favored in the documents of the ITU (42.85 percent). While industry self-regulation is mentioned to a moderate degree in the documents of the UNCTAD (30.00 percent), it is least supported by the GILC documents, which only accounts for 12.12 percent of total cases. While the UNCTAD and GILC similarly favor government regulation over industry self-regulation in their documents, they may do so for different reasons. In particular, the GILC prefers government intervention because it believes that self-regulation alone will not solve all the problems that the market creates and protect consumers from market abuse. On the other hand, the UNCTAD and developing countries favor government regulation over self-regulation mainly due to the lack of capability of the private sector in establishing and enforcing a voluntary code of conduct in many developing countries. By the same token, co-regulation is most widely mentioned by the OECD (18.30 percent) and GILC (21.21 percent) in their documents.
Although industry self-regulation has been increasingly regarded as a more efficient and dependable alternative to government regulation in international discussions, this does not necessarily imply that the role of government as a regulator will wither away soon. Even those who advocate industry self-regulation and oppose (over-) regulation by government explicitly demand government intervention in certain policy areas. This is clearly indicated in Table 18, which examines which of the three regulatory options is supported in thirteen key policy areas. As illustrated in the table, government regulation is generally supported in areas of access to infrastructure and universal access in the documents of most organizations. This is the case even for the OECD and AGB. This is partially because many access-related issues have been under telecommunication regulations for a long time. Although market competition has increasingly taken many regulatory functions from government, direct or indirect government intervention is still considered as a major regulatory instrument in these issues.

Intellectual property issues are a very interesting case as regards the role of government in electronic commerce governance. Although the private sectors have argued a minimal role for government regulation in electronic commerce, they have consistently demanded strict government regulation and enforcement of law in the area of intellectual property rights. This is evident in the documents of the OECD, GBDe and AGB, in which industry self-regulation is predominantly advocated. As indicated in Table 18, government regulation is favored over self-regulation in intellectual property rights issues by these three organizations. In this sense, the case of intellectual property rights issues demonstrates that the popular belief that developed countries and the private sector oppose any type of government regulation in electronic commerce is misleading.
The analysis also examines to which policy areas the attention of the six organizations is given in their documents. Overall, with the exception of the UNCTAD in trust issues and the GILC in ground rules issues, as regards what types of regulations are suggested by the six international organizations in their documents, the attention is given mainly to trust- and ground rules-related issues. Although the documents of the OECD, GBDe and AGB generally show a similar tendency, the analysis also suggests a noticeable difference among them, regarding desirable types of regulation in key policy areas. As indicated in the table, self-regulation is considerably favored by these three organizations on most trust- and ground rules-related issues. Nonetheless, government regulation is also moderately supported in these areas in the OECD documents whereas it is rarely supported in connection with these issues by the two international business organizations, except as regards intellectual property rights issues.

By the same token, the UNCTAD documents address the issue of regulation relatively less than those of other organizations. In particular, compared to the ITU, with which the UNCTAD tends to share a common view on electronic commerce governance, UNCTAD’s documents sporadically mention this issue in such areas as access to infrastructure, commercial law and standards. The ITU documents, on the other hand, show more interest in this issue. As illustrated in the table, the ITU documents tend to suggest government regulation on access related issues while they prefer self-regulation in such areas as privacy, consumer protection and international trade. Explicitly favoring government regulation over self-regulation, the GILC documents pay primary attention to trust-related issues.
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Table 18 (continued)
Table 18 (continued)

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</table>

# AU: Access Unspecified
TU: Trust Unspecified
GU: Ground Rules Unspecified

Table 18 Types of Intervention and Policy Instruments in Key Policy Areas
A recent OECD report states that international debates on an appropriate form of regulation in electronic commerce have moved from a simple question of regulation, self-regulation or no regulation toward the development of a proportional integrated approach (Mansell, 2001). In order to examine whether this argument is convincing, the present study examines if any change in frequency of the three regulatory options over time is found in the documents of the six international organizations. Results are presented in Table 19. According to the table, meaningful changes are found in the documents of some organizations. Simply stated, this change may be described as a shift towards a balanced approach to regulation. Change is most evident in the documents of the OECD and GBDé, which heavily favored industry self-regulation in earlier years. However, as international debates continue, support for the role of government regulation in electronic commerce has increased. Put differently, these organizations have increasingly taken a more balanced position on the regulation of electronic commerce. The GBDé’s balanced approach is contrasted with that of the AGB which has consistently favored industry self-regulation.
<table>
<thead>
<tr>
<th>Self-regulation</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GIBDe</th>
<th>AGB</th>
<th>GILC</th>
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<tr>
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<td>2</td>
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<tr>
<td>01</td>
<td>142</td>
<td>61</td>
<td>120</td>
<td>68</td>
<td>33</td>
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</tbody>
</table>

**Table 19** Change in Types of Intervention and Policy Instruments over Time
In sum, the analysis of types of intervention and policy instruments suggests that three types of regulation are preferred by the six international organizations in varying degree in their documents. Industry self-regulation is overwhelmingly favored by the two international business organizations, the GBD and AGB. Support for self-regulation is widely found in the documents of the OECD and ITU as well. However, these organizations also demand direct government intervention in particular policy areas, such as intellectual property rights. While these organizations acknowledge the role of government regulation in access-related issues, they tend to favor industry self-regulation in trust- and ground rules-related areas. On the contrary, the documents of the UNCTAD and GILC explicitly prefer government regulation to self-regulation. In particular, the GILC suggests in its documents that government regulation should be a primary mode of regulation in trust-related policy areas because self-regulation is incapable of protecting consumers from market abuse. As international discussions and negotiations have continued, there has increasingly emerged the need of a more balanced approach to the issue of regulation in electronic commerce governance, acknowledging the positive functions of both government intervention and industry codes of conduct.

**Primary Actors and Their Roles**

When objectives are set based on a problem definition, generally particular agents who are expected to achieve these objectives through a particular course of actions are assumed. Put differently, objectives significantly affect the way the actors define the respective roles within the process of establishing global governance for electronic commerce. Competing frames on electronic commerce governance not only identify who
the primary actors are but also what they should do to achieve the particular goals in electronic commerce governance. Sustained action of the actors in pursuit of particular goals takes place iteratively in various institutional contexts. In this sense, the actors’ roles and their action strategies condense elements of all the preceding features of the frames: they reflect a sense of problem definition, objectives, principles and types of intervention and policy instruments.

As described in the preceding chapters, various types of social actors have played an active part in the development of electronic commerce in the past several years, ranging from national governments, intergovernmental organizations, international business organizations, and consumer organizations to non-governmental engineering groups. All these actors have exerted influence on the process of establishing global rules and norms to govern electronic commerce in one way or another. Although some policy documents explicitly address specific roles for particular actors, most international policy documents tend to categorize primary actors relatively broadly in their documents, such as international organizations, national governments, the private sector, non-governmental organizations, and consumers or the general public. The current study employs these broad categories of social actors to examine how international policy documents identify primary actors and their roles in electronic commerce governance. National governments, the private sector, international organizations, and non-governmental organization are selected through the pilot analysis and examined here with respect to their suggested roles in these documents. Since no significant similarity or difference among the organizations is found in relation to particular policy areas, this section does not include a discussion of what actors and roles are mentioned in key policy
areas. In addition, since no notable converging or diverging change identifying social actors and their roles is found over time, this discussion is excluded in this section as well.

**Government**

In order to examine what roles are suggested for national governments in electronic commerce governance, through an in-depth pilot study, the present study has identified fourteen categories of the desired government roles, which are listed in Table 20. Next the frequency with which these categories have appeared in the documents of the six international organizations in the last five years is examined. Table 20 presents the results.

To what extent government should be involved in electronic commerce governance has been at the center of both domestic and international debates to establish electronic commerce governance. For those who believe that the best environment for electronic commerce to develop is one in which government is the least involved, its roles should be limited to supportive roles for the private sector, leaving the development of electronic commerce to the market and the private sectors. They argue that the government should provide a favorable legal environment for businesses in which a fair and open competition is ensured and if necessary, the legal enforcement to protect business from any type of anti-competitive behaviors and market fraud. What they also recommend government to do is to create encouraging conditions for businesses to adopt and actively participate in electronic commerce by promoting investments in infrastructure and participation in electronic commerce. On the other hand, those who demand more active government roles in electronic commerce governance argue that
where business lacks the capacity to develop electronic commerce, government needs to take the initiative to lead its development by ensuring capacity-building in infrastructure, knowledge and skills. Though from a slightly different angle, many also advocate the active involvement of government in protecting consumers and public interests by monitoring business commercial activities and preventing market abuse.

As indicated in Table 20, the total number of cases found in the documents of each organization varies, with the OECD highest and GILC lowest. Provision of education and training is identified as the most suggested role for government in the documents of the OECD (32.11 percent), UNCTAD (31.03 percent), ITU (35.55 percent) and GBD (30 percent). It is also ranked second and third for the AGB (19.51 percent) and GILC (15.38 percent), respectively. This is because a certain level of skills and knowledge is required for business to participate in electronic commerce and for consumers to use it. Utilizing its public educational facilities and resources, government is expected to play a key role in diffusing electronic commerce among the population. As we will see in the following sections, education and training are also widely recognized as one of the most requested roles for intergovernmental organizations, the private sector, and non-governmental organizations at this early stage of electronic commerce development.
<table>
<thead>
<tr>
<th>Should provide a minimal, transparent and predictable legal framework</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GBDE</th>
<th>AGB</th>
<th>GILC</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 (13.76)</td>
<td>10 (11.49)</td>
<td>3 (6.66)</td>
<td>5 (25.00)</td>
<td>27 (32.92)</td>
<td>1 (7.69)</td>
<td></td>
</tr>
<tr>
<td>Should ensure a fair and open competition</td>
<td>8 (7.33)</td>
<td>2 (2.29)</td>
<td>1 (2.22)</td>
<td>1 (5.00)</td>
<td>11 (13.41)</td>
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<tr>
<td>Should provide legal enforcement</td>
<td>8 (7.33)</td>
<td>0 (0.00)</td>
<td>3 (6.66)</td>
<td>0 (0.00)</td>
<td>5 (6.09)</td>
<td>1 (7.69)</td>
</tr>
<tr>
<td>Should support industry-led infra. and technological developments</td>
<td>2 (1.83)</td>
<td>1 (1.14)</td>
<td>0 (0.00)</td>
<td>4 (20.00)</td>
<td>8 (9.75)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>A model user</td>
<td>12 (11.00)</td>
<td>11 (12.64)</td>
<td>4 (8.88)</td>
<td>1 (5.00)</td>
<td>5 (6.09)</td>
<td>1 (7.69)</td>
</tr>
<tr>
<td>Promote participation in electronic commerce (awareness-creation)</td>
<td>8 (7.33)</td>
<td>18 (20.68)</td>
<td>5 (11.11)</td>
<td>1 (5.00)</td>
<td>3 (3.65)</td>
<td>3 (23.07)</td>
</tr>
<tr>
<td>Should provide training &amp; education</td>
<td>35 (32.11)</td>
<td>27 (31.03)</td>
<td>16 (35.55)</td>
<td>6 (30.00)</td>
<td>16 (19.51)</td>
<td>2 (15.38)</td>
</tr>
<tr>
<td>Should encourage investments in information infrastructure</td>
<td>6 (5.50)</td>
<td>7 (8.04)</td>
<td>6 (13.33)</td>
<td>1 (5.00)</td>
<td>6 (7.31)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Develop infra and technology for e-commerce</td>
<td>1 (0.91)</td>
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<td>1 (5.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
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<tr>
<td>Should ensure capacity-building</td>
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<td>0 (0.00)</td>
<td>0 (0.00)</td>
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<tr>
<td>Support developing countries</td>
<td>0 (0.00)</td>
<td>1 (1.14)</td>
<td>2 (4.44)</td>
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</tr>
<tr>
<td>Build a partnership with B, IO, CS</td>
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<td>8 (9.19)</td>
<td>1 (2.22)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>1 (7.69)</td>
</tr>
<tr>
<td>Should protect public interests</td>
<td>3 (2.75)</td>
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<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>1 (1.21)</td>
<td>4 (30.76)</td>
</tr>
<tr>
<td>Should monitor business commercial activities</td>
<td>4 (3.66)</td>
<td>1 (1.14)</td>
<td>4 (8.88)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Total N (%)</td>
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<td>87</td>
<td>45</td>
<td>20</td>
<td>82</td>
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</table>

**Table 20 Primary Actors and Their Roles: Government**
In the documents of international organizations, generally, government is primarily asked to play supportive roles for the private sector in electronic commerce development. Nonetheless, which supportive roles are recognized as desirable varies in their documents. Besides the provision of education and training, the documents of the OECD, GBDe, and AGB tend to focus on how government can provide an encouraging regulatory environment for the private sector to do business online and develop technology and infrastructure. For example, the provision of a minimal, transparent and predictable legal framework is widely regarded as a critical role for government by the OECD (13.76 percent), GBDe (25 percent), and AGB (32.92 percent). Given that their documents identify national regulatory discrepancies as a main problem in electronic commerce, this result seems to make sense. In addition, the OECD and AGB suggest that government should ensure a fair and open competition and provide legal enforcement for fraudulent behaviors to protect business in their documents. These two categories combined account for 14.66 percent of total cases for the OECD and 19.5 percent for the AGB.

On the other hand, the UNCTAD and ITU pay more attention to how government can encourage businesses and consumers to participate in electronic commerce, which is a more urgent issue in developing countries. To this end, government is asked to focus on awareness-creation for businesses and consumers (20.68 percent for the UNCTAD and 11.11 percent for the ITU) and to adopt electronic commerce actively in public procurement (12.64 percent for the UNCTAD and 8.88 percent for the ITU). Interestingly, despite their emphasis on active roles of government in developing electronic commerce, they realize that government alone is not capable of achieving the objective of electronic commerce.
commerce development. For example, government should encourage the domestic and transnational businesses to invest in developing infrastructure for electronic commerce, rather than bearing this responsibility by itself. Due to the lack of capacity and resources, according to their documents, governments should also build a partnership with domestic and transnational businesses, international organizations and civil societies, which is a necessary condition for the full development of electronic commerce. By the same token, while awareness creation is regarded as an important role (23.07 percent), the GILC underscores that government has a central responsibility to protect public interests in electronic commerce (30.76 percent).

**Private sector**

With the worldwide deregulation and liberalization in various economic sectors, including telecommunications, and the rapid technological development that requires very complex knowledge for the application and management of technologies, the private sector has taken many of the authorities and responsibilities of economic governance from nation-states and intergovernmental organizations at both the domestic and global levels. This is also evident in electronic commerce governance, as the private sector has increasingly emerged as a key player due to its technological prowess over governments and intergovernmental organizations. As demonstrated in the popular support for industry self-regulation, international policy documents variously recognize the significant roles of the private sector in electronic commerce governance. Table 21 presents an analysis of the suggested roles for the private sector by the six international organizations in their policy documents.
As illustrated in the table above, the roles of the private sector are addressed by the six organizations in their documents in varying degree. Overall, the OECD (57 times), GBDe (13 times) and AGB (59 times) are more interested than other organizations in its roles as the high numbers of total case indicate. On the other hand, the UNCTAD (3 times) and GILC (4 times) least mention this issue in their documents. Due to the low number of cases, therefore, it is difficult to determine if there exists any significant similarity or difference in the ways the six international organizations define the roles of the private sector in electronic commerce governance. Taking a risk of overgeneralization, nonetheless, it may be said that a consensual view that the private sector should play the
leadership role in electronic commerce development is noticeable in the documents of the OECD (40.35 percent), GBDe (46.15 percent), AGB (59.32 percent), and even ITU (37.50 percent). This is relatively clearly contrasted with the much lower support for the private sector as a collaborator with government in electronic commerce development (12.28 percent for the OECD, 7.69 percent for the GBDe, 3.38 percent for the AGB, and 0 percent for the ITU).

By the same token, the private sector is suggested to be not only a major infrastructure and technology developer but also a provider of education and training in most organizations’ documents, including the UNCTAD (66.66 percent for an infrastructure and technology developer) and GILC (25.00 percent for an infrastructure and technology developer and 25.00 percent for a provider of education and training). Despite the overwhelming support for industry self-regulation over government regulation in the documents of the OECD, GBDe and AGB, the explicit identification of the private sector as policy-maker and regulator is rarely found in their documents, 3.50 percent, 0 percent, and 8.47 percent, respectively. Instead, the private sector is identified as policy-maker and regulator more frequently in the ITU documents (37.5 percent). As suggested in the discussion of the ITU’s strong support for industry self-regulation, with its recognition of the leadership role of the private sector in electronic commerce development, this reflects increasing participation of the private sector in the discussion hosted by the ITU. It may also relate to the significant role of the private sector in telecommunication development and its regulation in which the ITU has a great stake.
International organizations

In addition to national governments and the private sector, intergovernmental organizations and other types of international organizations have played a significant role in developing global electronic commerce and establishing its governance. As electronic commerce transactions are conducted across national borders, raising various jurisdictional and regulatory issues, international organizations have been increasingly asked to be involved in the rule-making process for global electronic commerce, mediating different stakes of various actors. Moreover, the uneven diffusion and growth of electronic commerce among countries has raised the need of international initiatives to minimize the global digital divide, including international aid programs, training and education, and technical assistance for capacity-building. As regards the roles of international organizations, eleven activities are identified by the six international organizations in their policy documents, which are listed in Table 22.

Table 22 shows that interests in the roles of international organizations found in the documents vary, depending on the nature of each organization. Generally speaking, as found in the preceding sections on the roles of governments and the private sector, international business organizations tend to underscore the roles of the private sector while non-governmental organizations give much regard to those of the governments. On the other hand, intergovernmental organizations have a great interest in their positive roles in assisting capacity-building of developing countries and establishing its governance. As indicated by the totals, the documents of the GILC (5 times) and GBDe (1 time) rarely discuss the roles of international organizations whereas the UNCTAD
(143 times) and the OECD (45 times) more frequently mention their roles in the documents.

<table>
<thead>
<tr>
<th>Should promote international cooperation</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GBDE</th>
<th>AGB</th>
<th>GILC</th>
</tr>
</thead>
<tbody>
<tr>
<td>A forum for international cooperation</td>
<td>10 (22.22)</td>
<td>2 (1.39)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>4 (22.22)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Aid provider for capacity-building in developing countries</td>
<td>5 (11.11)</td>
<td>10 (6.99)</td>
<td>3 (13.63)</td>
<td>1 (100.00)</td>
<td>0 (0.00)</td>
<td>1 (20.00)</td>
</tr>
<tr>
<td>Provide technical assistance</td>
<td>5 (11.11)</td>
<td>18 (12.58)</td>
<td>6 (27.27)</td>
<td>0 (0.00)</td>
<td>2 (11.11)</td>
<td>1 (20.00)</td>
</tr>
<tr>
<td>Provide assistance in knowledge transfer and experience-sharing</td>
<td>8 (17.77)</td>
<td>27 (18.88)</td>
<td>3 (13.63)</td>
<td>0 (0.00)</td>
<td>2 (11.11)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Awareness-raising and support</td>
<td>1 (2.22)</td>
<td>14 (9.79)</td>
<td>3 (13.63)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Support national and regional cooperation</td>
<td>0 (0.00)</td>
<td>8 (5.59)</td>
<td>1 (4.54)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Provide training and education</td>
<td>4 (8.88)</td>
<td>25 (17.48)</td>
<td>2 (9.09)</td>
<td>0 (0.00)</td>
<td>3 (16.66)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Provide information and analysis</td>
<td>6 (13.33)</td>
<td>29 (20.27)</td>
<td>3 (13.63)</td>
<td>0 (0.00)</td>
<td>5 (27.77)</td>
<td>1 (20.00)</td>
</tr>
<tr>
<td>Support the establishment of minimum standards for consumer rights</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>1 (20.00)</td>
</tr>
<tr>
<td>Should involve international rule-making and implementation</td>
<td>2 (4.44)</td>
<td>3 (2.09)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>1 (20.00)</td>
</tr>
<tr>
<td>Total N (%)</td>
<td>45</td>
<td>143</td>
<td>22</td>
<td>1</td>
<td>18</td>
<td>5</td>
</tr>
</tbody>
</table>

Table 22 Primary Actors and Their Roles: International Organizations
Despite the relatively clear difference found in the previous analyses of other frame elements, divergence among the six international organizations is hardly seen with respect to the roles of international organizations. Commonly suggested roles for international organizations in the documents include the provision of information and analysis, technical assistance, training and education, aid provision, and assistance in knowledge and technology transfer. The only notable difference is that the OECD and AGB emphasize that international organizations should provide a forum for international cooperation (22.22 percent for both the OECD and AGB), whereas the UNCTAD and ITU pay more attention to how international organizations can assist capacity-building in electronic commerce. Moreover, when the UNCTAD and ITU raise the need of cooperation, their attention tends to be given to domestic and regional cooperation (5.59 percent for the UNCTAD and 4.54 percent for the ITU), rather than international cooperation (1.39 percent for the UNCTAD and 0 percent for the ITU). Given their different organizational membership and missions, however, this difference is understandable.

**Non-governmental organizations**

Even though an increasing involvement of non-governmental organizations in international governance of various social and economic sectors has been widely witnessed in the last couple of decades, their activities and roles have been recognized rarely in electronic commerce governance at the international level. Rather, their roles have been viewed as being limited to domestic issues. Other than the role of advocacy, the roles of non-governmental organizations tend to be ignored by international policy
documents. Even when their roles are recognized, they appear to be very limited as shown in Table 23. According to the table, only the GILC pays moderate attention to the role of non-governmental organizations, regarding provision of education and training (75 percent) and participation in international rule-making and implementation (25 percent). The OECD’s suggestion that non-governmental organizations be involved in international rule-making and implementation results from its efforts to bring non-governmental organizations to its international meetings to establish electronic commerce governance.

<table>
<thead>
<tr>
<th>Provide education and training</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GBDE</th>
<th>AGB</th>
<th>GILC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation in international rule-making and implementation</td>
<td>0 (0.00)</td>
<td>1 (100.00)</td>
<td>0 (0.00)</td>
<td>1 (100.00)</td>
<td>0 (0.00)</td>
<td>3 (75.00)</td>
</tr>
<tr>
<td>Participation in international rule-making and implementation</td>
<td>2 (100.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>1 (25.00)</td>
</tr>
<tr>
<td>Total N (%)</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>4</td>
</tr>
</tbody>
</table>

Table 23 Primary Actors and Their Roles: Others (NGOs)

In sum, the analysis of primary actors and their roles suggests that various positive roles of governments, the private sector, international organizations and non-governmental organizations are acknowledged in the international policy documents. For example, the provision of education and training is widely recognized in the documents as one of the most significant roles that these actors should play. However, as regards other roles of these actors, the documents of the six international organizations show some differences, revealing their different views on problem definitions, objectives and
principles. In particular, this difference is relatively noticeable in recognizing the roles of government, the private sector and non-governmental organizations.

Key Metaphors and Other Rhetorical Devices

Since frames are not self-interpretative, the interpretation of policy problems necessarily requires social actors who produce or sponsor particular frames in the rule-making process. These actors tend to share common ideas and beliefs on those problems at stake. While their roles and influence vary with respect to the nature of policy problems, in general, they seek to develop the frame, explicate its implications for action, and establish the grounds for arguments about it (Rein & Schon, 1991, p. 275). By the same token, the development and use of metaphors and rhetorical devices by these actors to communicate about their frames also has a significant impact on the rule-making process. The employment of symbolic language can contribute to formation of favorable opinions and views on particular frames and may serve either to offset these frames or solidify their definitions of policy problems (Terkildsen, Schnell & Ling, 1998, p. 47). In this sense, Gamson & Modigliani (1987) argue that “every policy issue is contested in a symbolic arena…..where the weapons are metaphors, catchphrases, and other condensing symbols” (p. 143).

Metaphors and other rhetorical devices can be used to effectively guide the attention of listeners and readers to a certain direction by putting a policy situation in a particular light. As Dryzek (1997) points out, these devices tend to appeal to widely accepted practices or institutions in a particular society, such as established rights, freedoms, constitutions, and cultural traditions (p. 17). In policy documents, metaphors
are often employed as backing for claims about the nature of the policy problem at stake and are woven into a meaningful narrative intended to persuade and inform. Conveying images of the policy problem in a certain way sets the stage for claims whose meaning has been clarified and thus can appear reasonable (Linder, 1995, p. 213). In this sense, metaphors are an essential element of policy frames.

This section presents an analysis of what metaphors are used in international policy documents with respect to electronic commerce and its governance. As with the preceding analysis of primary actors and their roles, due to insignificant results, this discussion does not include the analyses of what metaphors appear in key policy areas or whether there is any converging or diverging tendency among the organizations in using particular metaphors over time. Ten metaphors are identified in the pilot analysis. Each metaphor represents a particular aspect of the nature of electronic commerce and its governance and sheds light on certain aspects of it.

As illustrated in Table 24, choice appears most frequently in the documents of the OECD (53.84 percent), GBDe (66.66 percent), and AGB (54.11 percent). The ITU documents also use choice frequently, which accounts for 23.53 percent of total cases. Choice is generally employed to argue that electronic commerce will offer consumers more options in available goods and services, guaranteeing diversity. As regards electronic commerce governance, choice also represents a situation where consumers should be offered as diverse options for regulating their own behaviors as possible. Individual empowerment is closely related with the concept of choice because diverse choice is a necessary condition for consumers to be entitled to certain power in the marketplace. As a result, like choice, this metaphor is also widely found in the documents.
of the OECD (30.76 percent), GBDe (22.22 percent) and AGB (40.00 percent).

Individual empowerment is also the most frequently used metaphor in the documents of the ITU (41.17 percent). On the other hand, the UNCTAD and GILC rarely use these metaphors in their documents as indicated in the table.

<table>
<thead>
<tr>
<th>Metaphor</th>
<th>OECD</th>
<th>UNCTAD</th>
<th>ITU</th>
<th>GBDe</th>
<th>AGB</th>
<th>GILC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Choice</td>
<td>28 (53.84)</td>
<td>0 (0.00)</td>
<td>4 (23.52)</td>
<td>12 (66.66)</td>
<td>46 (54.11)</td>
<td>2 (6.45)</td>
</tr>
<tr>
<td>Individual empowerment</td>
<td>16 (30.76)</td>
<td>0 (0.00)</td>
<td>7 (41.17)</td>
<td>4 (22.22)</td>
<td>34 (40.00)</td>
<td>1 (3.22)</td>
</tr>
<tr>
<td>Economic opportunity</td>
<td>2 (3.84)</td>
<td>0 (0.00)</td>
<td>1 (5.88)</td>
<td>2 (11.11)</td>
<td>1 (1.17)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Sustainable economic development</td>
<td>1 (1.92)</td>
<td>3 (14.28)</td>
<td>3 (17.64)</td>
<td>0 (0.00)</td>
<td>4 (4.70)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>E-velopment</td>
<td>0 (0.00)</td>
<td>7 (33.33)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Local e-commerce culture</td>
<td>1 (1.92)</td>
<td>10 (47.61)</td>
<td>2 (11.76)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
</tr>
<tr>
<td>Public voice</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>3 (9.67)</td>
</tr>
<tr>
<td>Electronic Democracy</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>4 (12.90)</td>
</tr>
<tr>
<td>Public space</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>1 (3.22)</td>
</tr>
<tr>
<td>Human rights</td>
<td>4 (7.69)</td>
<td>1 (4.76)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>0 (0.00)</td>
<td>20 (64.51)</td>
</tr>
<tr>
<td>Total N (%)</td>
<td>52</td>
<td>21</td>
<td>17</td>
<td>18</td>
<td>85</td>
<td>31</td>
</tr>
</tbody>
</table>

Table 24 Key Metaphors and Other Rhetorical Devices

For the UNCTAD that is primarily interested in how electronic commerce and its governance can contribute to achieving more equal economic development among countries, those metaphors that emphasize the development aspects of electronic commerce are more frequently used in its documents. For example, sustainable economic development and e-velopment are this type of metaphor. E-velopment most succinctly
symbolizes the interest in the development aspects of electronic commerce, which was introduced first in the UNCTAD documents and accounts for 33.33 percent of total cases in metaphors. In addition, sustainable economic development widely appears in the documents of the UNCTAD (14.28 percent) and ITU (17.64 percent) as well. By the same token, there increasingly emerges a perception that since electronic commerce is not just another type of commercial transaction but a new cultural phenomenon, simple introduction of a transaction method and technology into one society will not guarantee full benefits of electronic commerce. This perception has led to an increasing attention to the cultural aspects of electronic commerce in the documents of some international organizations. For example, local e-commerce culture is most often used in the documents of the UNCTAD (47.61 percent) and ITU (11.76 percent).

On the other hand, reflecting its interests in such issues as democracy and human rights, the GILC documents employ very different metaphors from those of other organizations. As illustrated in the table above, human rights is the most frequently used metaphor in its documents (64.51 percent). In addition, electronic democracy and public voice also appear often in their documents, which account for 12.90 percent and 9.67 percent of total cases, respectively.

In brief, as demonstrated in the above discussion, different metaphors are frequently employed by different organizations in their documents, shedding light on a particular aspect of electronic commerce and its governance. The way these organizations employ particular metaphors are generally accorded to their views on problem definitions, objectives, principles, types of intervention and policy instruments, and primary actors and their roles. More importantly, a certain group of organizations tends to employ the
same metaphors in their documents as also found in the preceding analyses. For example, the OECD, GBDe and AGB are found to frequently use the same metaphors in their documents. The UNCTAD and ITU also employ the same metaphors although the ITU more often employs the metaphors that the OECD, GBDe and AGB use in their documents. By the same token, the metaphors that the GILC employs in its documents differ from those of other five organizations.

Summary

In order to examine the emerging policy discourses on electronic commerce governance, the present study has conducted a frame analysis of policy documents published by six international organizations. In doing so, the researcher has identified three working frames and their six constitutive elements. Then, in each of these frame elements, coding categories were developed and used for content analysis of the documents. This chapter provides results of this empirical analysis in which there are three important findings.

First of all, the analysis of policy documents in each of the six frame elements has found that particular groups of organizations tend to share the same frames. This is especially evident with respect to certain elements, in particular, problem definitions, objectives, principles and types of intervention and policy instruments. According to their different positions, the six international organizations can be categorized into three groups: (1) the OECD, AGB, and GBDe; (2) the UNCTAD and ITU; and (3) the GILC. While the organizations within each of these groups exhibit similarity in defining problems, setting goals, and supporting certain principles and regulatory instruments,
each group of organizations tends to be clearly different from other groups. Furthermore, the amount of attention that each group gives to key policy issues also differs from the others.

Second, the analysis also found that as international discussion and negotiations have proceeded, different frames have competed against each other to win popular acceptance and that the frames are affected by this frame competition, resulting in changes and modification in the key elements of the frames. The present study has examined whether or not there were changes or modifications over time in frames and their elements. As the analyses of problem definitions, objectives, and principles demonstrate, interest in and attention to the development dimension of electronic commerce have gradually increased in international discussions over time. By the same token, the analysis of types of intervention and policy instruments found that a more balanced and integrated approach to regulation of electronic commerce has emerged at various international discussions to establish global rules and norms in electronic commerce.

Lastly, though it may not be said that it has directly resulted from frame competition or conflicts, the analyses of some frame elements found that there are some overlaps and similarities among different groups of organizations. For example, an analysis of principles suggests that certain principles such as competition, liberalization/deregulation, and transparency have widely appeared across the documents of different groups of organizations. By the same token, as shown by the analysis of the case of ITU, which shares common problem definitions, objectives, and principles with the UNCTAD but is closer to the OECD, AGB and GBDe with respect to positions on
the roles of self-regulation and the private sector in electronic commerce governance, some organizations tend to demonstrate an inconsistent view on electronic commerce governance in their documents.
CHAPTER 6

CONCLUSION

This dissertation explores how particular types of global rules and norms have emerged with respect to the governance of electronic commerce. In order to achieve this research objective, this study does not give attention to how actors pursue their interests through decision-making processes. Instead, what this study focuses on is the ideas of those actors concerning policy problems, and their discursive practices to control collectively shared meanings on these problems in the rule-making process. Put differently, the development of international rules and norms for electronic commerce is regarded as a process in which actors develop their ideas and views on policy problems and act in accordance with these views. In order to analyze emerging ideas and views on the governance of electronic commerce, the present study employs frame analysis, which directs attention to frames, their emergence, conflicts and change.

This study conducted a content analysis of policy documents published by six international organizations that have been widely regarded as the leading organizations in setting the policy agenda for electronic commerce, representing the stakes of different actors in the issue. By doing so, through an in-depth examination of sample documents and other supporting materials, the researcher has found three working frames on the
governance of electronic commerce and identified their six constitutive features which include problem definition, objectives, principles, types of intervention and policy instruments, primary actors and their roles, and key metaphors and other rhetorical devices. Coding categories based on these six features were developed and used for the content analysis of the policy documents. The primary objectives of the empirical analysis were to examine what frames have emerged on the governance of electronic commerce in the international rule-making process and how they have changed over time. This empirical analysis intended to answer two research questions that the dissertation posed. This chapter concludes the current study by summarizing research findings in relation to research questions and discussing them within the context of the theoretical framework that guided the study.

**Emerging Frames on Global Electronic Commerce Governance**

The first research question that this dissertation has posed is what frames have emerged in the international rule-making process for global electronic commerce. In answering this question, the current study has set the following objectives: (1) to identify the main features of the frames, including problem definition, objectives, principles, types of intervention and policy instruments, primary actors and their roles, and key metaphors and other rhetorical devices; (2) to identify the nature of attention given to policy issues in the frames; and (3) to identify institutional/organizational supports for the frames. From the content analysis of policy documents, we have found that there have emerged three different frames on electronic commerce governance in the international rule-making process. As demonstrated in the analysis of the six frame elements and
described below, these three frames contrast with each other in many aspects, revealing different ideas and views on how electronic commerce should be governed.

The first frame that has emerged in international discussions may be called “the economic dimension frame” because it sheds the primary light on economic aspects of electronic commerce. According to this frame, the most important policy problem to be resolved is regulatory uncertainty that results from national legal and regulatory discrepancies in the areas of electronic commerce. In other words, this frame views incompatible and uncoordinated national legislation and policies in electronic commerce as the main barrier for the global diffusion and growth of electronic commerce. It thus suggests that primary international efforts to establish global governance in electronic commerce should be made to achieve international policy harmonization and legal coherence. Besides this goal, open and fair competitive (global) market/ access to the global marketplace is also considered very important in this frame. Also, recognizing the increasing role of the private sector in international governance, this frame suggests that the participation of the private sector in the international policy-making process for electronic commerce be ensured. In accomplishing these objectives, according to the economic dimension frame, there are several key principles that should guide the course of action and strategies of social actors in the process of establishing electronic commerce governance. These principles include competition, market-force/market-driven, market access, liberalization/deregulation. In addition, transparency, neutrality and interoperability are also given much regard in this frame.

As regards types of intervention and policy instruments for electronic commerce governance, this frame tends to take a liberal market approach, maintaining that the pace
of change and the ‘born global’ nature of electronic commerce have heightened the risks associated with government regulation. This leads to the argument that the private sector should lead the development of electronic commerce, and with the help of technological solutions, business-led self-regulation should be the alternative to government regulation for governing various commercial and legal issues in electronic commerce. Nonetheless, this frame does not suppose that government regulation should be totally removed in electronic commerce governance. Rather, it strongly demands direct government intervention or regulation in some cases. Suggesting a minimal, “hands-off” regulation of government, this frame limits the role of government to the provision of a stable, transparent and predictable legal environment enabling the enforcement of electronic contracts, the protection of intellectual property rights and safeguarding fair and open competition.

When objectives are set based on a problem definition, generally particular agents who are expected to achieve these objectives through a particular course of actions are assumed. As the analysis shows in the preceding chapter, frames on electronic commerce governance not only identify who the primary actors are but also what they should do to achieve particular goals in electronic commerce governance. According to this frame, the private sector should play the leadership role in electronic commerce development and its governance. In addition, the private sector is expected to provide education and training. On the other hand, the roles of government are largely limited to supportive roles for the private sector in this frame. Government is expected to not only provide education and training but also promote industry-led technology and infrastructure development. The government is also asked to provide a minimal, transparent and predictable legal
framework for the private sector, which will ensure fair and open competition. In addition, this frame demands that legal enforcement be provided against fraudulent behavior to protect business. In contrast to its great interest in the roles of the private sector and government, the roles of international organizations and non-governmental organizations are underrecognized in this frame.

Lastly, key words, metaphors, concepts, symbols and visual images are frequently used as rhetorical devices in framing the social and policy issues. Metaphors and other rhetorical devices can be used to effectively guide the attention of listeners and readers to a certain direction by putting a policy situation in a particular light. In policy documents, metaphors are often employed as backing for claims about the nature of the policy problem at stake and are woven into a meaningful narrative intended to persuade and inform. Conveying images of the policy problem in a certain way sets the stage for claims whose meaning has been clarified and thus can appear reasonable (Linder, 1995, p. 213). Key metaphors frequently employed by this frame include choice, individual empowerment, and economic opportunity.

Constructing electronic commerce governance in certain ways also determines which policy issues should get more consideration in the rule-making process. As shown in the previous chapter, the emerging frames on electronic commerce governance tend to place different weight on key policy issues. While some policy issues are given higher regard, others tend to be overlooked or underestimated by these frames. The analysis found that the economic dimension frame tends to place more weight on trust (privacy, security, consumer protection and content regulation) and ground rules-related issues (taxation, IPR, international trade, commercial law and standards) than access issues.
(access to infrastructure, access to content, universal access and Internet names and numbers). This finding is of no surprise given that this frame considers national legal discrepancies as the main policy problem in global electronic commerce and thus suggests international policy harmonization/legal coherence as the primary goal to be pursued in the international rule-making process for electronic commerce.

Frames are grounded in the institutions and particular organizations as subsets of institutions that produce and sponsor them, and policy controversies arise among those institutional/organizational actors who hold conflicting frames. By the same token, these institutions and organizations are the main sites in which the frames compete against each other to win popular acceptance of their own construction of policy problems, which often leads to the strengthening of the dominant frame, its replacement with the competing frame or the emergence of a newly compromised frame. The analysis of international policy documents suggests that each of the three frames is supported in each of the six international organizations in varying degree. As the results of the analysis indicate, these six international organizations can be categorized into the three groups, based on their ideas and views on electronic commerce governance as follows: (1) OECD, GBDe and AGB; (2) UNCTAD and ITU; and (3) GILC.

Although some differences are noticed in the analyses of frame elements, the economic dimension frame is prevailing and dominant in the first group of organizations, the OECD, GBDe and AGB. The results of the analysis and other resources such as media reports and academic articles thus suggest that the main institutional and organizational support for the economic dimension frame come from the following actors: (1) the private sector and various types of domestic and international
organizations that the private sector forms or supports financially; (2) developed
countries that are the most well-prepared and advanced in participating in electronic
commerce, (3) trade-related intergovernmental organizations such as the WTO, which
have led worldwide trade liberalization and deregulation; and (4) other international
organizations in which rich countries have memberships or are the chief financial
sponsors for the organizations.

The second frame has increasingly gained support in international discussion as
developing countries began to recognize the implications of electronic commerce for
their national development and economic growth. Due to its interest in the impact of
electronic commerce on national economic growth, this frame can be called “the
development dimension frame”. Making the criticism that international discussions tend
to place too much emphasis on the economic and business aspects of electronic
commerce, this frame maintains that the discussions should consider the development
implications of electronic commerce. Recognizing lack of capacity in access to networks,
knowledge and skills to participate in electronic commerce among the majority of the
world population, this frame identifies deficiency in access, knowledge and trust as the
main problems that hamper the diffusion and growth of electronic commerce. This
perception of a policy problem leads to emphasizing capacity-building in access,
knowledge and trust as a primary goal to be pursued in electronic commerce governance.
Since electronic commerce requires seamlessly interconnected networks and the global
market, this frame suggests, capacity-building should be an urgently pursued objective
that any emerging form of electronic commerce governance seriously considers. As
related to this objective, production of local or indigenous contents and products is also considered critical in this frame as well.

As mentioned above, identifying national legal differences as a main barrier for the development of global electronic commerce, the economic dimension frame raises the need of harmonization of different national laws and regulation in the areas of electronic commerce. On the contrary, the development dimension frame considers the lack of a national legal framework and policy strategy in electronic commerce as another obstacle to the development of electronic commerce at the national level. Therefore, it suggests the development of national policy strategies and legal frameworks as another key objective to be addressed in international discussions to establish electronic commerce governance. However, this frame also acknowledges that international policy harmonization is necessary in some areas for further growth of electronic commerce across national borders. Competition, liberalization/deregulation, and market-force/market-driven are promoted by this frame as key principles that should guide the course of actions and strategies in accomplishing these objectives. The fact that these guiding principles are mostly overlapped with those of the economic dimension frame indicates that the market is widely viewed as the most efficient solution to policy problems that electronic commerce creates. However, reflecting its interests in the development dimension, this frame also considers equality, equity and cultural identity and diversity as other key principles.

In regards to types of intervention and policy instruments, the development dimension frame maintains that the prevailing belief in self-regulatory governance for electronic commerce is misleading because government has central responsibilities to
ensure that electronic commerce is a source of economic benefits and social improvement to all parts of the population. Generally speaking, government regulation is still seen as a better instrument to govern electronic commerce than industry self-regulation in this frame. Nonetheless, acknowledging that the private sector plays and moreover, should play a critical role for the developing countries in the development of electronic commerce, this frame suggests collaboration between the private sector and government in the regulation of electronic commerce. Compared to the economic dimension frame, this frame thus suggests more active involvement of government in electronic commerce governance. In addition to the provision of education and training, the government is expected to play various roles to promote the participation of firms and consumers in electronic commerce through awareness-creation and is expected to encourage investments in infrastructure. In addition, it is recommended that the government, as a model user, adopt electronic commerce in its procurement.

According to the development dimension frame, the private sector tends to be seen as a collaborator with government in developing electronic commerce and is expected to be a major technology and infrastructure developer. In contrast to the slight interest of the economic dimension frame in the roles of international organizations, the development dimension frame’s perception that lack of capacity in infrastructure and knowledge are main barrier to electronic commerce development leads this frame to emphasize the active roles of international organizations in assisting capacity-building in developing countries. Their roles, as identified and suggested by this frame include the provision of technical assistance, information and analysis, education and training, and assistance for technology and knowledge transfer among the countries and awareness-
raising. On the other hand, this frame rarely recognizes the roles of non-governmental organizations in electronic commerce governance, which results from the state-centered view of this frame. Lastly, this frame frequently employs such metaphors as e-development, sustainable economic development and local e-commerce culture, underscoring the important implications of electronic commerce for national economic development and cultural identity and diversity.

Since the development dimension frame has a great interest in how deficiency in access, knowledge and trust can be overcome by particular courses of action and strategies adopted by social actors, its primary attention tends to be given to those issues that have a great direct impact on the capabilities of businesses and consumers in adopting and participating in electronic commerce. These issues include access to infrastructure, access to content, and universal access. Interestingly, among the four access-related issues, this frame does not show much interest in Internet names and numbers, which may be related with the low diffusion rate of the Internet in developing and less developed countries. Due to its emphasis on an objective of developing national policy strategy/legal frameworks, this frame also places great weight on some ground rule issues in which the need of international coordination is widely acknowledged. These ground rules issues include taxation, commercial law and intellectual property rights, which are believed to have broader economic implications for developing and less developed countries.

As expected, the development dimension frame gets the most support from policy-makers, regulators, and academics in developing and less developed countries. In addition, the development dimension frame tends to prevail in international organizations
whose mission is mainly to represent interests of these countries and assist their national economic development. The UN affiliated organizations such as UNCTAD, UNESCO, and ITU are good examples of these organizations. Nonetheless, as found in the analyses of the UNCTAD and ITU documents, some noticeable differences remain among these organizations in terms of to what extent this frame is supported. For example, as shown in the analyses of frame elements, this frame is generally dominant and consistently supported in the documents of the UNCTAD whereas this tendency is much weaker in the documents of the ITU.

The last frame that has emerged in international discussions to establish electronic commerce governance may be called “the social dimension frame”. This frame shares a common perception with the development dimension of a bias in the international rule-making process for electronic commerce, criticizing its overemphasis on the economic and business aspects of electronic commerce. Therefore, this frame maintains that international discussions also need to consider the broader social implications of electronic commerce and its governance. As electronic commerce changes the way consumers buy and consume goods and services, according to this frame, it creates various new problems with respect to the protection of consumers’ rights such as privacy, freedom of expression, and right to information. This frame, therefore, views the lack of protection for consumer’s rights as the main obstacle to the further diffusion and growth of electronic commerce.

In order to establish electronic commerce governance that is responsive to its social implications, this frame suggests that a set of social standards in electronic commerce should be established, which aim to protect basic human rights such as privacy,
freedom of expression, and right to information. Since access to advanced communication and information technologies increasingly has become a necessity in the information economy, according to this frame, affordable and universal access to them must be regarded as a key objective. Public intervention in policy-making is thus crucial in the sense that it is a necessary condition for these public interest concerns to be reflected in emerging electronic commerce governance.

Reflecting its concerns on the social aspects of electronic commerce, this frame proposes such principles as right to expression, right to privacy, right to use encryption, free exchange of ideas, and free flow of information should guide the course of actions and strategies of social actors to create a particular form of governance in electronic commerce. By the same token, in regards to how electronic commerce should be regulated, government regulation is heavily favored by this frame while co-regulation or self-regulation with a legal framework is increasingly viewed as an alternative in some policy areas. Since market forces will not solve all electronic commerce-related issues and will cause other problems such as market abuse, government must protect consumers from these problems both within and across borders. In particular, the social dimension frame suggests that government regulation should be a primary mode of regulation in trust-related areas because self-regulation is incapable of protecting consumers from market abuse.

What the social dimension frame expects primary social actors to do also reflects its perception of policy problems. With the roles of awareness-creation and the provision of education and training, this frame underscores that government has a central responsibility to protect public interests in electronic commerce. The private sector is
largely underrecognized as a governing authority of electronic commerce in this frame, primarily seen as being an infrastructure and technology developer and provider of education and training. While this frame recommends some roles for non-governmental organizations including the provision of education, it rarely pays attention to other international organizations. On the other hand, reflecting its interests in such issues as democracy and human rights, the social dimension frame employs very different metaphors from those of the previous two frames. Human rights is the most frequently used metaphor in this frame. In addition, electronic democracy and public voice are also widely used as symbolic metaphors.

Since the social dimension frame is mainly interested in how consumers are to be properly protected in the electronic marketplace and how their basic human rights are to be ensured, its attention tends to be devoted to those policy areas that directly relate to these human rights and public interest concerns. As related to the protection of consumers’ rights, this frame places great emphasis on such issues as privacy, security, consumer protection and content regulation. By the same token, universal access is also considered as a very important policy area since access to advanced information and communication technologies is viewed as a essential human right in this frame.

As we found in the analysis of GILC documents, the social dimension frame has prevailed in and been promoted by non-governmental organizations such as public interest groups, consumer interest groups and trade unions. Due to the economic, social and cultural implications of electronic commerce, non-governmental organizations have been actively involved in the rule-making process for it at the national level. More importantly, with the remarkable development of transportation and communication,
international alliances of non-governmental organizations have considerably increased and been actively involved in addressing international policy problems, including electronic commerce governance. A good example is an international alliance of non-governmental organizations, the GILC, which has addressed various international policy issues in the Internet and electronic commerce.

As summarized in Table 25, these three emerging frames present different constructions concerning how electronic commerce should be governed. Their different definitions of the main problem in electronic commerce lead them to set different objectives to be pursued in the rule-making process for global electronic commerce. Furthermore, how the policy problem is defined also determines the course of actions and strategies for social actors to achieve these objectives. Since the primary goal of these frames is to win popular acceptance of their problem definition, conflicts and competition unavoidably arise when they seek to control intersubjective meaning of the problem. Conflicts between the competing frames result in various changes. Sometimes, the conflicts reinforce the dominant frames, marginalizing the alternative ones. In other cases, frame conflicts may lead to a situation where the alternative one replaces the dominant frame. However, it is more likely that these conflicts result in convergence among the competing frames though in varying degree, leading to emergence of the compromised frames. Based on the results of frame analysis, the following section presents a discussion of what changes conflicts and competition among the three emerging frames on electronic commerce governance have resulted in.
<table>
<thead>
<tr>
<th>Problem Definition</th>
<th>Economic Dimension Frame</th>
<th>Development Dimension Frame</th>
<th>Social Dimension Frame</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory uncertainty due to national legal discrepancies</td>
<td>Deficiency in access, knowledge and trust</td>
<td>Lack of protection for consumer’s rights</td>
<td></td>
</tr>
<tr>
<td>International policy coherence/harmonization, Open and fair competitive (global) market/ access to the global marketplace</td>
<td>Capacity-building in access, knowledge and trust, Developing national policy strategy/legal framework, Participation in international rule-making and its implementation, Production of local content</td>
<td>Establishing a set of social standards in electronic commerce, Protection of human rights, Universal access/access affordability, Public intervention in policy-making</td>
<td></td>
</tr>
<tr>
<td>Competition, Market-force/market-driven, Market access, Liberalization/deregulation, Transparency, Neutrality, Interoperability</td>
<td>Competition, Liberalization/deregulation, Market-force/market-driven, Equality, Equity, Cultural identity and diversity</td>
<td>Right to expression, Right to privacy, Right to use encryption, Right to information, Free flow of information</td>
<td></td>
</tr>
<tr>
<td>Industry self-regulation</td>
<td>Government regulation</td>
<td>Government regulation</td>
<td></td>
</tr>
<tr>
<td>Choice, Individual empowerment, Economic opportunity</td>
<td>E-velopment, Sustainable economic development, Local e-commerce culture</td>
<td>Human rights, Public voice, Electronic democracy</td>
<td></td>
</tr>
</tbody>
</table>

**Table 25** Emerging Frames on Global Electronic Commerce Governance
Frame Competition in Establishing Global Electronic Commerce Governance

The second research question that this dissertation has raised is how the frames have changed over time. In answering this question, the current study has aimed to identify any convergence or divergence among the frames over time, regarding problem definition, objectives, principles, types of intervention and policy instruments, primary actors and their roles, and key metaphors and other rhetorical devices. The content analysis of international policy documents has found that the three emerging frames construct the policy problem of how electronic commerce should be governed in different ways. As demonstrated in the preceding analysis, they are contrasted with each other and appear to be incommensurable in some ways, which inevitably creates conflicts among them in the rule-making process as they attempt to establish rules and norms in the way that these rules and norms reflect their own construction of electronic commerce governance. Since the frames are grounded in the institutional contexts in which they are produced and sponsored by particular social actors, conflicts and competition between them also take place in those contexts. In addition to what frames have emerged, the current dissertation has also examined how competition among the three emerging frames on electronic commerce governance has affected the way these frames construct electronic commerce governance; this was done by examining any changes in each of the six frame elements.

Since certain levels of infrastructural capacity, trust, knowledge and skills are required to participate in electronic commerce, its adoption and diffusion was primarily limited to countries with these capacities already in place at the early stage. Moreover,
since the development of advanced information and communication technologies that are
the critical components of electronic commerce was led by the private sectors in these
countries and the private sectors were the main users of electronic commerce, the primary
policy considerations for electronic commerce tended to focus on how the needs and
demands of the private sector could be met. This tendency was widely noted in early
discussions of electronic commerce, both domestic and international. As a result, the
economic dimension frame dominated early discussions on electronic commerce and its
governance at both domestic and international levels. In other words, the economic
dimension frame prevailed in domestic and international discussions to create rules and
norms for electronic commerce. For example, this frame was dominantly represented in
early key national policy documents issued by the U.S., EU, and Japan and in
international policy discussions hosted by the OECD, which took the initiative in setting
the policy agenda from the early stage of electronic commerce development. Our analysis
of the OECD policy documents clearly indicated that the economic dimension frame has
been dominant.

However, as electronic commerce has emerged as an important means to conduct
commercial transactions within and across national territories and its broader economic,
social and cultural implications have been widely acknowledged by various social actors,
more diverse aspects of electronic commerce have increasingly captured attention in both
domestic and international discussions. As found in the analysis and discussed above, two
different approaches to electronic commerce governance have emerged. First, those who
have raised the need of a more diverse perspective on electronic commerce governance
were mainly those countries that have increasingly recognized the economic implications
of electronic commerce for their national development but were incapable of adopting it
due to their lack of infrastructure, knowledge and skills. They, mostly developing and
underdeveloped countries, have advocated that international discussions and negotiations
must consider how underdeveloped regions of the world can equally benefit from the
development of electronic commerce and address how the need for capacity-building in
those regions can best be met. This development dimension frame has been widely shared
and actively promoted by these countries in international discussions, first, where they
were main participants and then, where various stakeholders were involved.

Another challenge to the prevailing economic dimension frame came from those
who underscored the social implications of electronic commerce and placed much weight
on how electronic commerce governance can properly protect the consumer’s basic
human rights. These actors included various non-governmental organizations such as
consumer interest groups, social movements, trade unions, and civil rights groups, and
they tended to act at the domestic level. However, the born-global nature of electronic
commerce has led them to recognize the need of forming international coalitions. They
have actively advocated their view on electronic commerce governance in international
discussions. Their argument is basically based on the assumptions that every population
must be guaranteed universal or affordable access to advanced communication and
information technologies for whatever activities they want to participate in, including
electronic commerce, and their basic human rights such as privacy and freedom of speech
must be protected while they are involved in those activities.

As these alternative perspectives on electronic commerce governance have
increasingly posed challenges to the prevailing economic dimension frame in
international discussions, conflicts have become intense and policy controversies have thus arisen in international discussions. Since international discussions and negotiations are still under way to establish global rules and norms for electronic commerce, it may be premature to say or even attempt to predict what these conflicts will result in and which frame will prevail. Nonetheless, it is evident that frame conflicts have huge impacts on the way these frames construct how electronic commerce should be governed, leading to changes in the content and nature of the frames. These changes were relatively clearly noticed over time. In regards to frame competition and the subsequent change in the way electronic commerce governance is constructed by these competing frames, a couple of points need to be made here, which also respond to the second research question of the current study.

Above all, as a result of competition among the three frames on electronic commerce governance in the international rule-making process, a converging trend among them in the way they frame electronic commerce governance was found in the content analysis. A good example of this convergence is increasing interest in the issue of digital divide that directly relates to many concerns addressed by both the development and social dimension frames. According to these frames, digital divide has significant implications for national economic development as well as the protection of human rights. The development dimension views digital divide mainly from a national angle, addressing what impacts on national economic development are caused by the asymmetry between countries in their opportunities to access information and communication technologies and to use the Internet for a wide variety of activities, and how this asymmetry can be minimized. On the other hand, the social dimension frame is
more interested in how this asymmetry affects individuals as consumers, members of the public or citizens, in how it affects their basic rights, and in how this gap can be reduced. As international discussions and negotiations have continued in which the development and social dimensions have consistently raised the need of giving more regard to digital divide issues, these issues have increasingly been recognized as a critical policy problem by all three frames, including the economic dimension.

This converging tendency over time was widely found in the preceding analysis. In regards to problem definition, frequency of deficiency in access, knowledge and trust steadily increased in the documents of most international organizations during a five-year time period. This was clearly the case in the documents published by the OECD, GBDe and AGB in which the problem definition of the economic dimension frame dominantly prevailed from earlier years. As related to this problem definition, one or more of such objectives as capacity-building in access, knowledge and trust, production of local contents and products, and developing national policy strategy/legal framework and universal access/access affordability also steadily increased in the documents of most organizations. Among the three organizations in which the economic dimension prevailed, this increase is identified in the OECD and GBDe documents more clearly. As Table 8, which is a rank ordering of five objectives, indicates, in the OECD documents, universal access/access affordability, and public intervention in policy-making, which are key objectives suggested by the social dimension frame, are ranked second and fifth, respectively, whereas capacity-building in access, knowledge, and trust is ranked third. By the same token, capacity-building in access, knowledge, and trust and production of local contents and products, which are viewed as key objectives by the development
dimension, are ranked third and fourth, respectively while universal access/access affordability is ranked fifth in the GBDe documents.

Though not as conspicuous as it was in the areas of problem definition and objectives, this converging trend is also noted in the analyses of principles and types of intervention and key policy instruments. Such principles as equality, equity, cultural identity and diversity, national sovereignty, and affordability, which represent the development and social dimensions of electronic commerce, have been increasingly acknowledged in the documents of the OECD, GBDe and ITU. By the same token, the increase in support for a more balanced and integrative approach to regulation of electronic commerce is widely noticed in most international policy documents. In particular, this change is most evident in the documents of the OECD and GBDe, which heavily favored industry self-regulation in earlier years.

On the other hand, the considerable power of the economic dimension frame in the international rule-making process has resulted in another interesting form of convergence among the competing frames, in particular, between the economic dimension and development dimension frames. As indicated in the analysis of principles, particular principles are universally accepted as key guiding ones in electronic commerce governance, some of which explicitly represent the view of those who support the economic dimension frame. These principles include competition, liberalization/deregulation, nondiscrimination, and transparency. Given that principles have a great impact on the process of specific rule-creation at the national level and their change can lead to fundamental changes in the way electronic commerce is governed, this convergence in key principles between the development and economic dimension frames
may have huge implications for future international negotiations and the subsequent domestic legislation and implementation of global rules and norms.

Secondly, since frames are grounded in institutional contexts, competition among the different frames also takes place in these contexts. This dissertation selected six international organizations which are a subset of institutions and analyzed their documents to examine the emergence of frames and their competition in the institutional context. These organizations are major institutional actors that have played the leading role in the international rule-making process for electronic commerce. The analysis of key frame elements in the preceding chapter showed which frame on electronic commerce governance prevailed in each organization and its documents. Moreover, the analysis also showed how this has changed over time. The results suggest that the extent of frame competition in these organizations varies. The frame competition is relatively weak in those organizations whose memberships are limited to a particular type of actors and whose primary activity in the rule-making process is advocacy, which include the GBDDe, AGB and GILC. On the other hand, it is more competitive in the three intergovernmental organizations, which makes a good deal of sense because these organizations have hosted international meetings open to various social actors and their memberships are large and diverse.

According to the analysis, although frame competition has resulted in a converging trend among the frames, which is an increasing interest in the development and social dimensions of electronic commerce, the economic dimension has overwhelmingly prevailed in the AGB and GBDDe. By the same token, despite the dominating influence of the economic dimension frame in both domestic and
international discussions, its influence has been marginal in the GILC documents over five years. These findings suggest that frame conflicts and competition have been relatively weak in these organizations. On the other hand, the cases of the OECD, UNCTAD and ITU demonstrate that frame conflicts have been more intense in these organizations. Among these three organizations, as the analysis of frame elements indicates, frame competition is stronger in the OECD and ITU than in the UNCTAD.

This difference appears to result from their distinct organizational characteristics and mission. In other words, since it was created by the leadership of developing countries to address their concerns on trade and development issues, the UNCTAD has been primarily a forum for these countries to discuss electronic commerce-related issues, which tended to limit the range of topics and participants in discussion. On the other hand, the OECD began to consider electronic commerce issues to address the interests of developed countries and the private sectors but has increasingly opened its forum to a wide range of stakeholders, including developing countries and non-governmental organizations. By the same token, the ITU is a specialized intergovernmental agency in telecommunications and has a wide range of membership, including developed and developing countries and the private sectors. Due to these factors, despite overall prevalence of a particular frame, other frames have shown presence though in varying degree in these three organizations, producing some inconsistent and mixed results in the analysis of frame elements. The examples of these results include the ITU’s strong support for self-regulation and competition in electronic commerce, as well as the OECD’s recognition of universal access/access affordability and public intervention in the policy-making process as important objectives.
These findings provide a very important clue for understanding the role and function of international organization in establishing global rules and norms for electronic commerce. As discussed above, the intensity of frame competition varies among international organizations and their documents, which partially resulted from difference in their membership and missions. However, these variances relate more directly to what extent each organization has opened its discussion to other social actors. Put differently, the more a particular international organization draws various social actors into its discussion and negotiation to establish electronic commerce governance, the more intense the frame competition and conflict gets. Needless to say, it is a political decision whether a particular international organization will become more open or not. In order to grasp the meaning and implications of this political decision that is made by international organizations, we first need to understand a key function that international organizations perform in the so-called “hegemony-building” process in a Gramscian term. This function of international organizations has critical implications for emerging form of governance in global electronic commerce.

According to the Neo-Gramscian international political economy, international organizations are one form of institutions that are “the broadly understood and accepted ways of organizing particular spheres of social action” (Cox, 1996, p. 149). They are also a “mechanism through which the universal norms of a world hegemony are expressed” (Cox, 1983, p. 62). This mechanism is embodied in their various functions. Cox describes some of these functions as follows: “(1) they embody the rules which facilitate the expansion of hegemonic world orders; (2) they are themselves the product of the hegemonic world order; (3) they ideologically legitimate the norm of the world
order; (4) they co-opt the elites from peripheral countries; and (5) they absorb counter-hegemonic ideas (1983, p. 62). The last function of international organizations is especially relevant to the current discussion. For Gramsci, hegemony is understood as arising from shared understandings or intersubjective meanings. These intersubjective meanings play a key role in incorporating different interests of the subordinate groups into that of the dominant group. The role of idea and ideologies as providing “universal” principles and practices is critical in this process since it is an inevitable element to form a hegemony and a historic bloc.

This Gramsci’s view on the roles of ideas in hegemony-building provides a useful insight to explain why a certain international organization is more open than others in incorporating ideas and views of various actors into their discussions, which then leads to more intense frame competition in this organization. In order to be the hegemonic groups, they need to embrace the subordinate groups and their counter-hegemonic ideas. This oftentimes results in contention and conflict between those of the hegemonic and subordinate groups, which then leads to adjustment and modification of the hegemonic ideas. Applying this argument to the present study, the intensity of frame competition in particular international organizations explicitly reflect the willingness and capability of those organizations in embracing the counter-ideas on electronic commerce governance. This, in turn, implies that those international organizations that have actively embraced the competing ideas can be viewed as performing a critically important hegemonic function in establishing electronic commerce governance.

From the content analysis and discussion above, the researcher found that the intensity of frame competition in six international organizations varies, revealing their
different willingness to embrace the competing frames on electronic commerce governance. Based on the empirical analyses of problem definition, objectives, principles, and types of intervention and policy instruments, in Figure 1, the researcher provides a rough illustration of how frame competition has affected the way electronic commerce governance is framed in the six international organizations and their documents over time, which also directly relates to how much each organization has embraced the competing frames.

As indicated in Figure 1, frame competition has been weak in the three international organizations, the GILC, AGB, GBDe, and one intergovernmental organization, the UNCTAD, which suggests that these organizations have rarely embraced other competing frames over time. This implies that while these organizations have played a significant role in establishing electronic commerce governance, they have not performed a hegemonic function, absorbing counter-hegemonic ideas on electronic commerce governance. Compared to these four organizations, the ITU has relatively actively embraced the concerns of economic dimension frame over the last five years. Nonetheless, its focus on telecommunication issues and the primary interests in the development aspects of electronic commerce have limited the potential of the ITU as a hegemonic actor. On the other hand, Figure 1 clearly demonstrates that the OECD has most actively embraced other competing views on electronic commerce governance in the past years. It has included various concerns of the social and development dimension frames in its agenda for electronic commerce governance. Unlike the AGB and GBDe with which the OECD has shared a common view on electronic commerce governance, the OECD has increasingly absorbed the other counter-views, which is a manifest
indication of a hegemonic function described by Cox. More significantly, this implies that the OECD will be the primary rule-setter for global electronic commerce.

* S: social concerns
E: economic concerns
D: development concerns

**Figure 1** Frame Change in Six International Organizations over Time

In sum, presenting different constructions of electronic commerce governance, the emerging three frames have competed against each other to win popular acceptance of their own framing of electronic commerce governance in the rule-making process in the
last five years. In particular, due to the challenges to the economic dimension frame that the development and social dimension frames have posed, we have witnessed that the attention to the development and social aspects of electronic commerce have steadily increased in the rule-making process, resulting in a convergence among the competing frames in terms of the way they frame how electronic commerce should be governed. The frame competition is also grounded in institutional contexts. According to the findings of this analysis, how intense the frame competition is in the six international organizations varies. Despite some evidence of convergence among the frames, the prevalence of a particular frame in a certain international organization is notable. Given that these organizations are key players and provide a primary forum in establishing global rules and norms for electronic commerce, these differences may have significant implications for which form of governance will be established. Put differently, which organization takes the initiative in and has a greater impact on the rule-making process for electronic commerce will significantly affect the emerging form of governance.

The Social Construction of Governance in Global Electronic Commerce:

Theoretical Implications

Informed by theoretical developments in international relations and public policy, this dissertation intended to fill two major research gaps in the exiting literature on emerging forms of governance in global electronic commerce. First, the existing literature tends to place too much emphasis on actors and their activities in the rule-making process to investigate emerging forms of governance in global electronic commerce. Despite its substantial contribution to our understanding of the process by
which a particular form of governance has emerged in electronic commerce, this actor-centered approach reveals a couple of weaknesses in explaining this process. This approach is not very successful in demonstrating how each actor’s activities are related to the others’, and how these activities result in a certain outcome in the rule-making process. By the same token, it tends to ignore the question of why these actors behave the way they do, simply assuming that they are rational enough to know what their best interests are and that these interests and preferences guide the actors’ behaviors to maximize their interests in the rule-making process. According to its core assumptions, actors’ interests and preferences are exogenously given and are always determined by external factors such as material power and national security concerns, rather than being formed directly out of the rule-making process. These assumptions are, however, difficult or impossible to retain when the behaviors of the actors conflict with their presumed interests and change against their interests in the rule-making process.

In order to provide a better explanation of how a particular form of governance has emerged, this dissertation took a different approach that underscores the critical roles of ideas and discourse. According to this alternative approach, ideas neither simply reflect nor are determined by interests. Instead, the particular ideas held and advocated by certain actors can have a great impact on the way other actors perceive social reality, which then leads to changing the interests of those actors. By the same token, the use of language in the social interaction among actors constitutes the basis of a collective process of interpretation and understanding of social realities. By way of discursive practices in social interaction, social actors reinterpret their actions and contexts in which those actions are made. This then affects the courses of action and strategies by which
they pursue their interests. Put differently, the actors’ interests that guide their behaviors are determined by particular ideas while these interests and ideas are changed through discursive practices in the rule-making process itself.

This line of thought provided a theoretical framework for the current study. Instead of focusing on what the key social actors have done in the rule-making process for global electronic commerce, this study placed the emphasis on the ideas held and advocated by various social actors with respect to how electronic commerce should be governed and discursive practices of social actors in the rule-making process. In particular, in order to explicate the process by which a particular form of governance has emerged, this study paid attention to what conflicts these different ideas have created in the rule-making process and what changes in these ideas these conflicts have resulted in. As shown in the preceding analysis chapter and discussed above, this study found that there have emerged three different ideas on electronic commerce governance in the rule-making process. Furthermore, the current study found that competition among them has affected the way that electronic commerce governance is constructed by these ideas, resulting in some convergence among them.

In a theoretical sense, the current study was intended to make a contribution to the literature on emerging forms of governance in electronic commerce by overcoming the weaknesses of the existing literature that result from its actor-centered approach and the rationalist assumptions. The literature offers a detailed report of what each actor has done in the rule-making process but does not explain how each actor’s activities are related to the others’. Also related to this problem, the literature does not explain well how these activities result in a particular outcome in the rule-making process. Given that the
international system lacks a central government and thus legislative authority to make a decision on a particular policy issue, it is very difficult to unravel the way a particular outcome has been produced in the international rule-making process. This is why the existing literature frequently relies on presumed interests which are also determined by external factors such as material power and security concerns to explain this process. In response to these weaknesses, this study demonstrated that each actor’s activities are guided by particular ideas that the actor holds with respect to how electronic commerce should be governed. Since interests of the social actors are shaped and reshaped by ideas, their activities to accomplish their own interests are also guided by those ideas in the rule-making process. If different actors share the same ideas, their activities tend to be similar in the rule-making process. For example, the OECD and two international business organizations, the GBDe and AGB tend to share similar ideas on electronic commerce governance, which then leads them to behave in the rule-making process in a similar way.

By the same token, how a particular rule and norm is created in the rule-making process was explained in this study as an outcome of discursive practices of social actors who hold particular ideas on electronic commerce governance. Each actor advocates particular ideas to control intersubjective meanings related to electronic commerce governance in the rule-making process, which inevitably creates conflicts among different ideas held by different social actors. Discourse and discursive practices among the social actors who hold competing ideas lead those actors to reinterpret their activities and contexts in which those activities are conducted. This then affects the course of strategies for them to pursue their interests in the rule-making process. In other words,
discursive practices in the rule-making process have a significant impact on other’s ideas on electronic commerce governance as well as each actor’s interests that are shaped by his ideas. In this sense, it can be said that a particular policy decision is an outcome of the discursive practices among social actors in the rule-making process, who compete against each other to win popular acceptance of their own ideas and views on a particular policy problem or issue.

Second, much existing work on the emerging forms of electronic commerce governance reveals a tendency toward state-centrism that underestimates the increasing involvement of non-state actors in international governance, and also their influence in the rule-making process for various international issues. Even when their roles are recognized in some work, the focus is generally limited to a particular policy area, such as Internet standards and domain names where the activities of non-state actors have been widely noted. By the same token, these pieces of research tend to use a case study of one particular actor to examine the role of non-state actors in the rule-making process. Research that examines the roles of non-state actors in various electronic commerce-related issues and the competing efforts of both state and non-state actors to establish global rules and norms for electronic commerce is rare. Despite their proper consideration of non-state actors and their roles, these works do not provide a comprehensive description of the increasing involvement of non-state actors in the rule-making process for electronic commerce. In other words, the existing works tend to overlook the fact that non-state actors have expanded their activities beyond those areas in which their roles have been widely identified since the early years of electronic commerce development. In addition, while a case study of a particular non-state actor
may provide a rich description of its role and activities in the rule-making process, this approach cannot demonstrate how its role and activities relate to those of other social actors and explain how interaction between this actor and others affects its subsequent roles and activities as well as those of others in the rule-making process.

Considering both state actors and non-state actors as key players in the rule-making process and examining their views on various electronic commerce related issues, this dissertation aimed to offer a more comprehensive explanation of the process by which global rules and norms are established by social actors in electronic commerce. For this end, in addition to intergovernmental organizations, this dissertation also gave attention to the private sector and non-governmental organizations and their increasing involvement in the international rule-making process. In particular, the role of the private sectors has been prominent in this process, employing various strategies to advocate the business perspective on electronic commerce governance to other stakeholders.

In order to examine how the private sectors and non-governmental organizations construct electronic commerce governance, this study included two prominent international business alliances, the GBDel and AGB, and one international non-governmental organization, the GILC, in the electronic commerce area. As demonstrated in the analysis, the private sector has been the main producer and supporter of the economic dimension frame. Its view has considerably prevailed in the documents of the OECD, which has been the leading international organization to establish a global framework for electronic commerce. The prevalence of the economic dimension frame clearly reflects the increasing power of the private sector in the rule-making process to establish global electronic commerce governance. By the same token, due to the active
participation of non-governmental organizations, the social dimension frame has increasingly gained support in international discussions, which is most notable in the OECD documents.

In sum, the current study has maintained that the existing literature reveals some weaknesses by placing too much emphasis on what state actors have done in the international rule-making process to establish electronic commerce governance. In order to overcome these problems, this study has proposed that ideas and discourse should be viewed as key components of the international system and thus, the rule-making process. In addition, it also argues that we need to recognize the increasing significance of non-state actors in international politics and pay attention to their roles in the international rule-making process. These assumptions have led this dissertation to shed light on the ideas of various social actors on electronic commerce governance and discursive practices by which they compete to legitimize and win popular support for their construction of how electronic commerce should be governed. Put differently, suggesting that governance in electronic commerce is socially constructed through discursive practices of various social actors who hold different ideas on electronic commerce governance, the current study has provided a better explanation of how a particular form of governance has emerged in global electronic commerce.
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