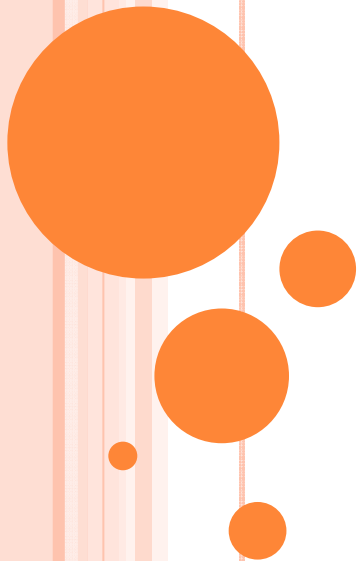


**LEGAL FRAMEWORK FOR
ENABLING PAPERLESS
TRADING IN KOREA**

March 24, 2009

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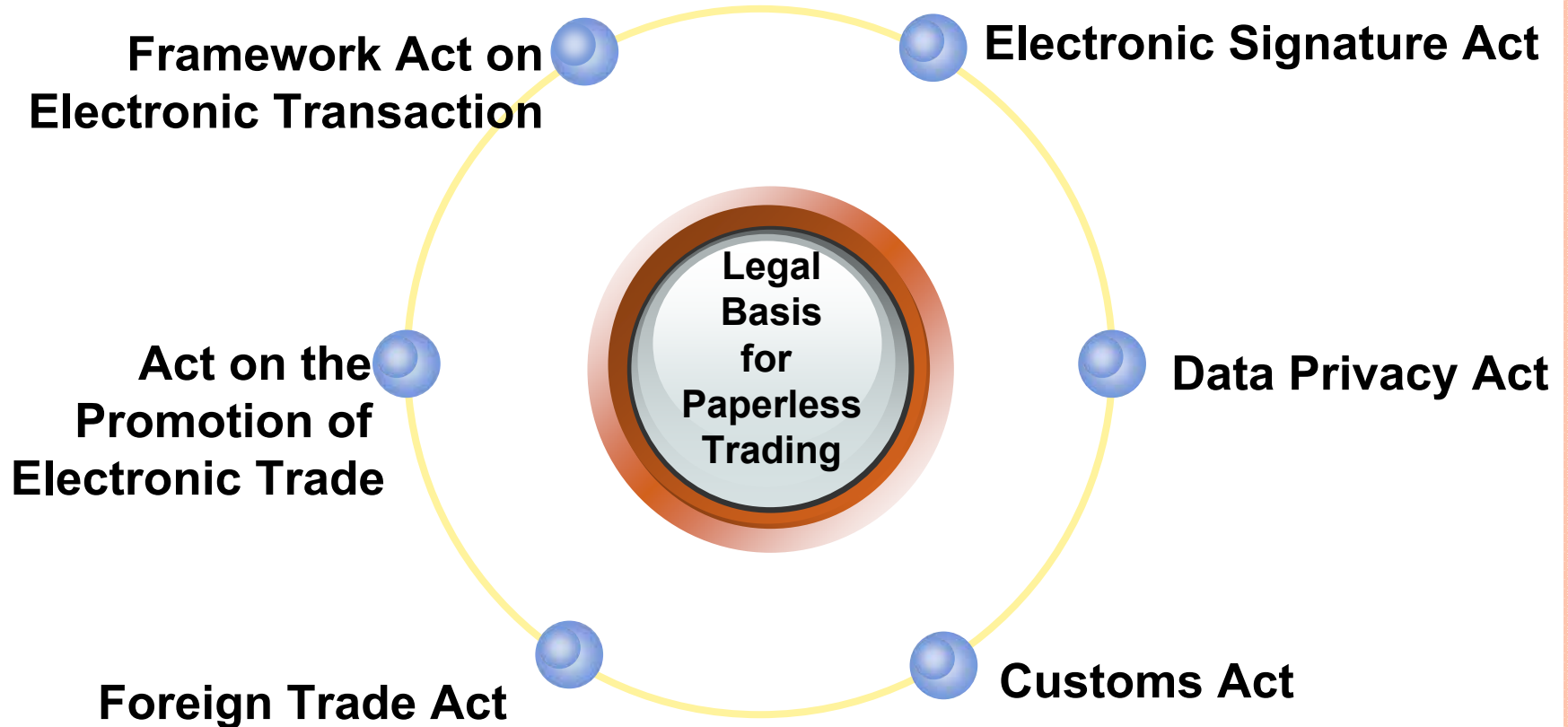


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1. Legal Framework for Paperless Trading in Korea



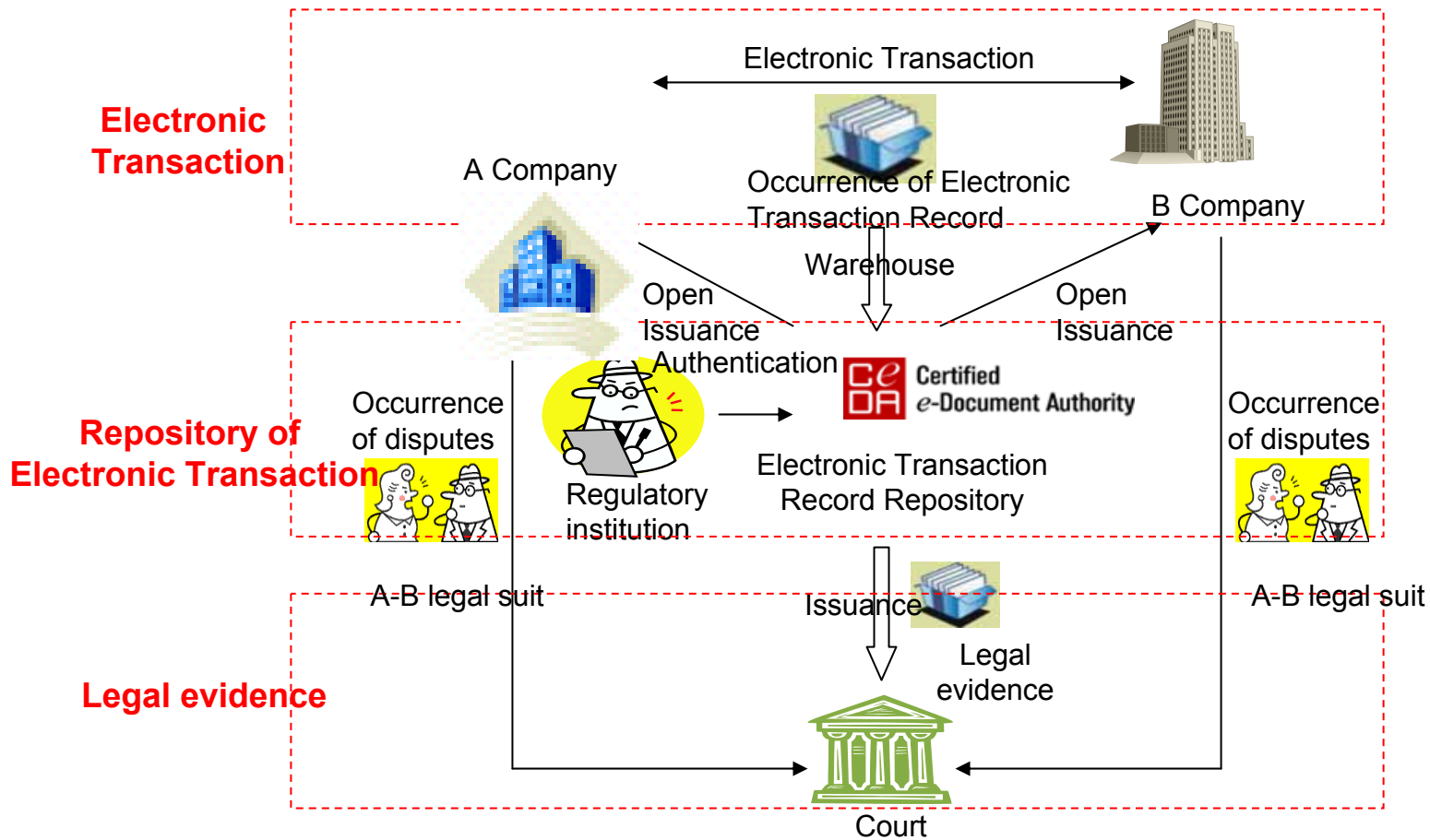
(A) Framework Act on Electronic Transaction

- **Prepared based on the UNCITRAL Model Law on Electronic Commerce**

- **The Act defines and prescribes the following matters**
 - ▶ Electronic document (Data message in UNCITRAL model law)
 - ▶ Legal effect of electronic document
 - ▶ Storage, exchange and delivery of electronic document
 - ▶ Security and consumer protection in electronic transaction
 - ▶ Policy-setting for the promotion of electronic transaction
 - ▶ Facilitation of Electronic Transaction
 - Standardization, technology development, HRD, etc.
 - ▶ Certified Electronic Document Authority
 - ▶ E-Commerce Mediation Committee



- **Certified Electronic Document Authority (CeDA)**
 - A trusted third party (TPP) for archiving electronic documents



(B) Electronic Signature Act

- **Prepared based on the UNCITRAL Model Law on Electronic Signature**
- **The Act defines and prescribes the following matters**
 - ▶ Electronic signature
 - ▶ Legal effect of electronic signature
 - ▶ Publicly certified CA (Certificate Authority) and its operation
 - ▶ Publicly certified certificate
 - ▶ Security and Reliability of CA services
 - ▶ Policy setting and its implementation



(C) Act on the Promotion of Electronic Trade

□ **The Act defines and prescribes the following matters**

- ▶ Electronic trade
- ▶ Electronic Trade Infrastructure facility
- ▶ Facilitation of electronic trade (National e-Trade Facilitation Committee)
- ▶ Operator for electronic trade infrastructure facility
- ▶ Use of electronic trade infrastructure facility
- ▶ Archiving and certification of electronic trade document
- ▶ Use, security, management of electronic document



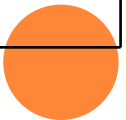
(D) Data Privacy Act (In the process of enactment)

- **Fully conforms to the OECD and APEC guideline on data privacy**
- **Currently two laws separately prescribe public and private domains**
 - ▶ Act on the Protection of Privacy by Public Organization
 - ▶ Act on the Promotion of Information and Communication Network and Protection of Privacy, etc.
- **The Act defines and prescribes the following matters**
 - ▶ Comprehensively applicable both to public and private sectors
 - ▶ Creation of Privacy Commission



2. Matching with the UN Rec. 35 Checklist

Checklist	Current Status
Legal Basis for SW Facility Implementation	<ul style="list-style-type: none">- Legal Effect of e-document: Yes- Use of Int'l standards: Yes
Organizational Structure for SW Facility	<ul style="list-style-type: none">- SW Organization and its Legal Basis: Yes- Further coordination among the players needed
Identification, Authentication & Authorization Procedure	<ul style="list-style-type: none">- National laws provide basis for these issues
Authority for Data & Conditions for Sharing Data in SW Facility	<ul style="list-style-type: none">- National Laws provide the basis- Further coordination is desired.
Data Quality Issues	<ul style="list-style-type: none">- National Laws provide the basis- CeDA reinforces the basis
Data Protection Mechanism	<ul style="list-style-type: none">- Data Privacy Act is installed- Other relevant laws also prescribe data protection(privacy & confidentiality) issues



Checklist	Current Status
Liability Issues	<ul style="list-style-type: none"> -National Laws provide the basis - CeDA reinforces the basis
Arbitration and Dispute Resolution Mechanism	<ul style="list-style-type: none"> -National Laws provide the basis - Korea Commercial Arbitration Board
Electronic Documents	<ul style="list-style-type: none"> - Fully implemented in all the relevant laws
Electronic Archiving	<ul style="list-style-type: none"> -National Laws provide the basis - CeDA reinforces the basis
IPR and Database Ownership	<ul style="list-style-type: none"> - Caution is given in the stage of implementation. - Further caution and review is desirable.
Competition Issues	<ul style="list-style-type: none"> - Caution is given in the stage of implementation. - Further caution and review is desirable.



3. Domestic and Cross-border Paperless Trading Cases

◆ Domestic Case

Trade Leads & Overseas Ads

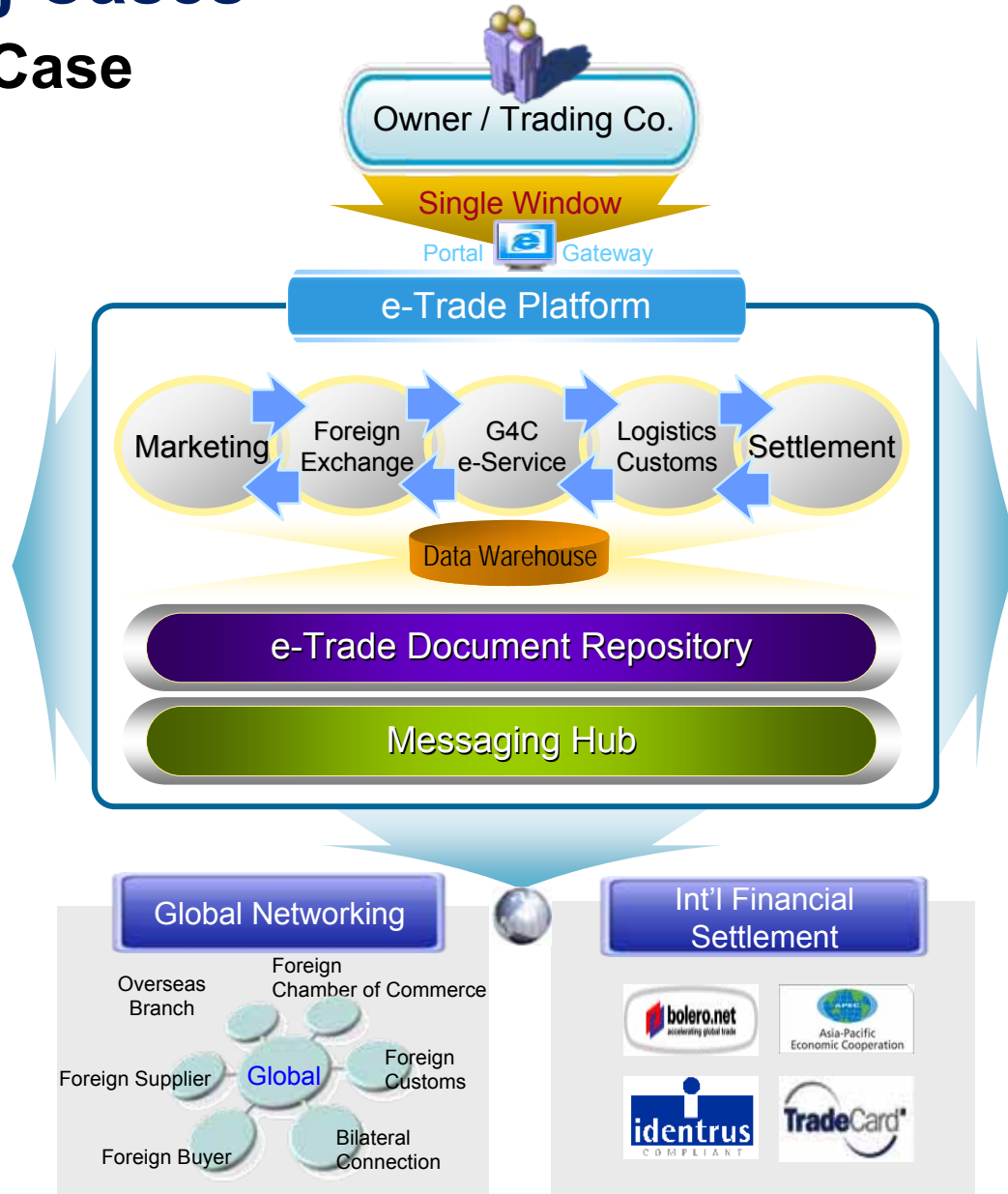
- e-Market Place
- e-Biz Site
- Trade Information Site

Credit Evaluation

- Credit Evaluation Co.
- Korea Export Insurance Corporation

License & Certificate

- Union / Association
- KCCI
- Quarantine Station
- Insurance Company
- Private Institution



Financial Institution

- KFTC
- SWIFTNet
- The Bank of Korea
- Banks
- Foreign Exchange Network

Logistics

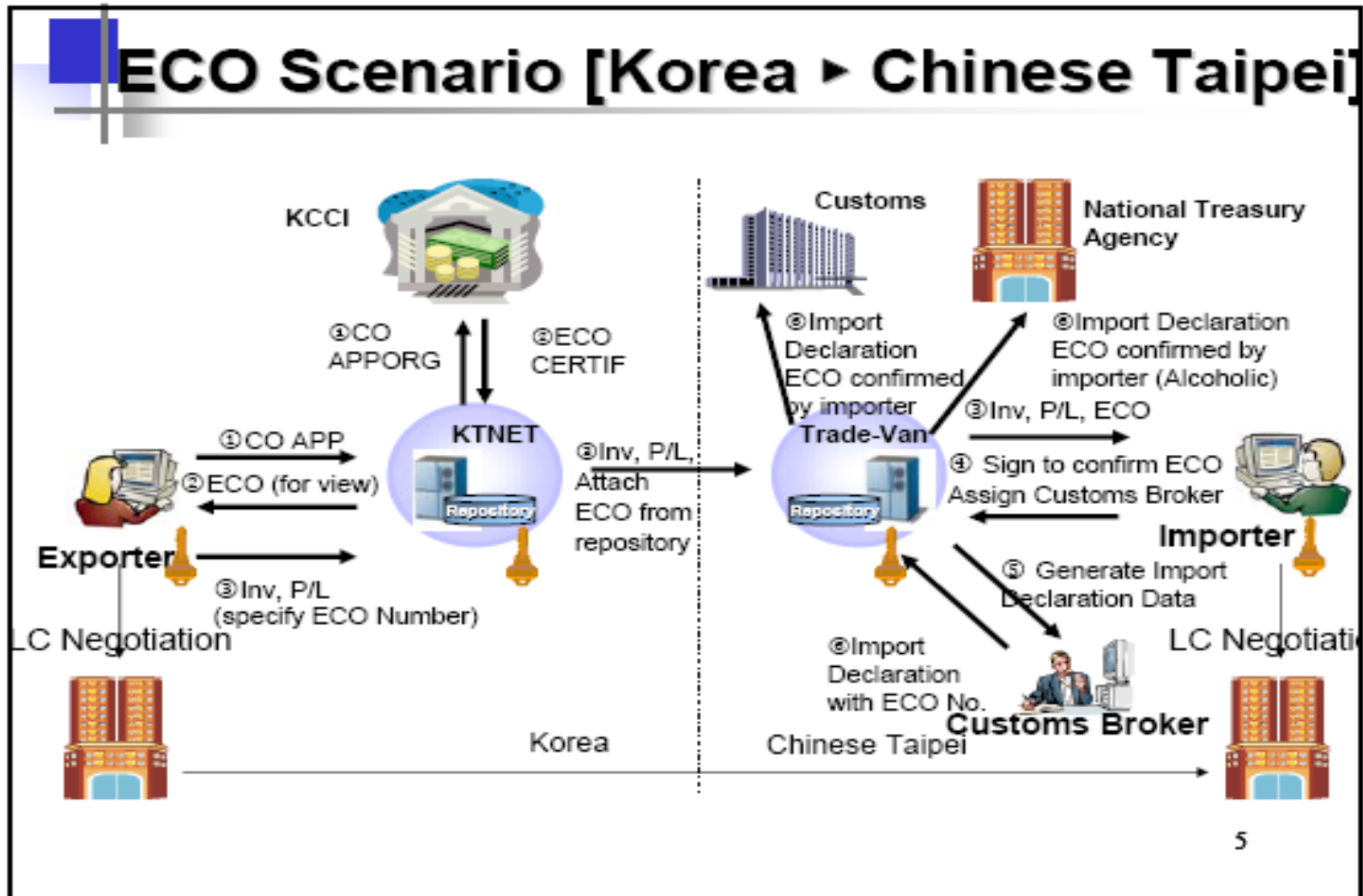
- Shipper / Airliner
- Forwarder
- CY, Bonded Warehouse
- KLNET
- KILC
- National BPR/ISP

Customs

- Korea Customs Service
- Customs Broker



◆ Cross Border Case



4. Issues for the Progress of the Legal Framework for Paperless Trading

- **At the national level, coordination among the stakeholders of paperless trading (both public and private) is demanding and critical tasks.**
 - ▶ Top-down approach from legal enforcement
 - ▶ Bilateral/multi-lateral (inter-organizational) agreement

- **When it goes beyond national level (cross-border), the issue of coordination among SW facilities becomes more critical.**
 - ex) different laws, business practices, technologies, etc..
 - ▶ The coordination should be in the form of bi-lateral or multi-lateral agreement
 - multi-lateral agreement (regional or Int'l level) is preferred.
 - ▶ Model agreement will be a valuable resource for catching-up nations to follow/benchmark .
 - ex) UNCITRAL Model Laws

THANK YOU

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