Introduction to the law of electronic signatures

Luca Castellani

Head, Regional Centre for Asia and the Pacific

UNCITRAL Secretariat

Incheon, Republic of Korea

Outline

1. Methods and technologies for electronic signatures

2. Policy approaches to electronic signatures

3. Certification service provider

4. Model Law on Electronic Signature

Methods and technologies for electronic signatures

Traditional hand-written signature

Notion of authentication and signature in the paper world

- "Authenticity" as a quality
- "Signature" as a method

Basic Functions of hand-written signatures

- Identify a person
- Associate that person with the content of a document
- Attest to signatory's intent to
  - o to be bound by the content of a signed contract
  - o to endorse authorship of a text
- Prove the signatory's presence at a given place and time

Not all of these functions are intrinsic to the paper document. In particular, identification/trust may derive from other sources.

Electronic authentication technologies
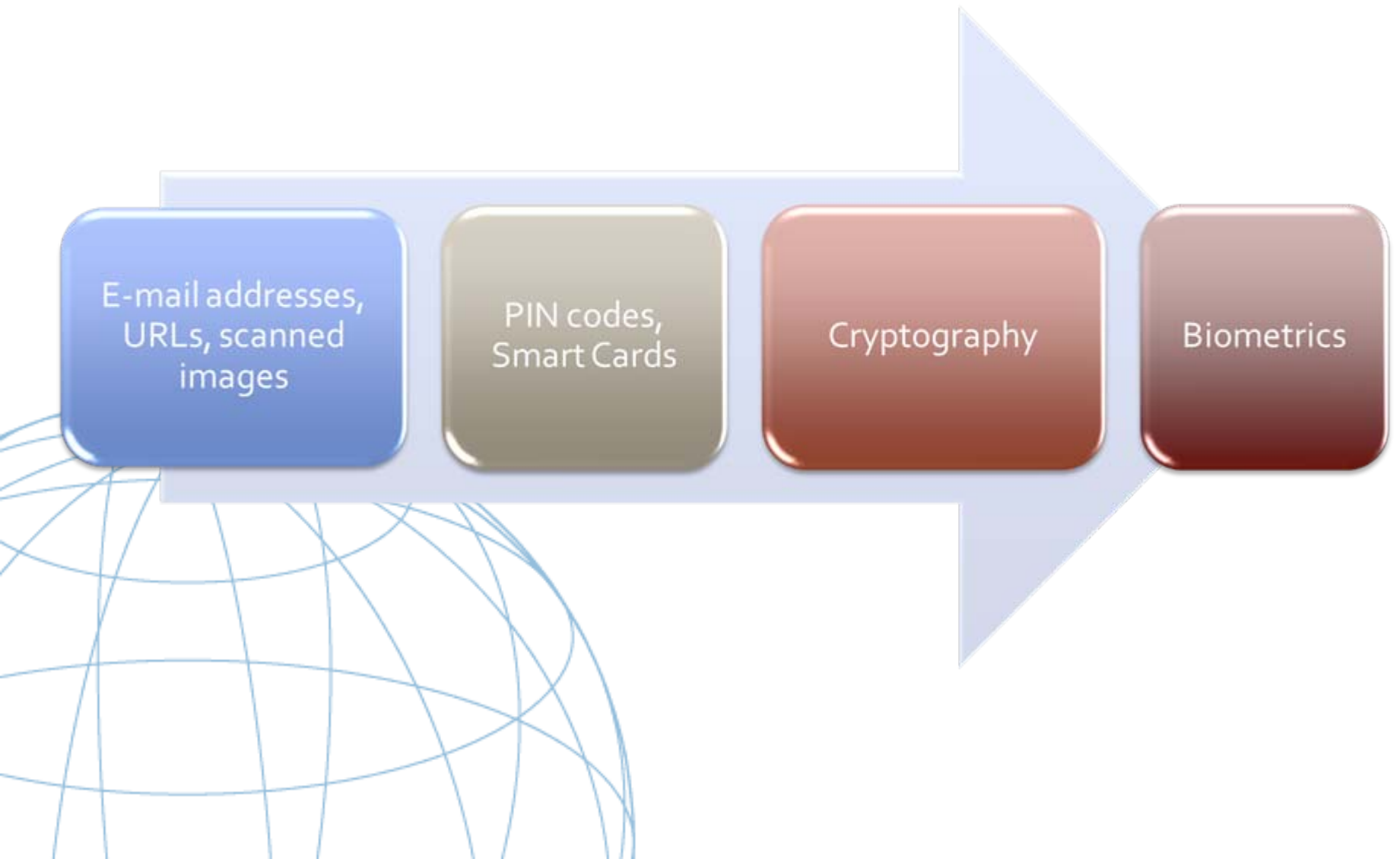
Barriers to international use of electronic signatures

Absence of common standards

- o Different countries may adopt different methods

- o Same method may be applied with different technical standards in different countries

Variety of approaches and designs

- o Conflicting conceptual outlay of electronic signature systems

- o Varying role of State

Policy approaches to electronic signatures

1. Minimalist approach

Parties are free to choose

Minimum requirement

- Law provides minimum requirements.

- Follows the principle of technological neutrality.

- Functional equivalence is confirmed provided that certain specified functions and requirements are met.

- Parties are free to choose any signature method they deem appropriate.

irement & Choice of ID and Password